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# Supreme Court of the United States

October Term, 1940.

No. 18.

ROBERT J. DECKERT, ROWLAND W. RANDAL,  
DAVID W. COMPTON, et al.,  
*Petitioners,*

THE PENNSYLVANIA COMPANY FOR INSURANCES  
ON LIVES AND GRANTING ANNUITIES.

## APPENDIX

To Brief of The Pennsylvania Company for  
Insurances on Lives and Granting  
Annuities, Respondent.

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## Appendix.

### TRUST AGREEMENT.

AGREEMENT dated as of May 1, 1934, by and between CAPITAL SAVINGS PLAN, INC., a corporation organized and existing under the laws of the State of Pennsylvania (hereinafter called the "Company"), party of the first part, THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, a corporation organized and existing under the laws of the State of Pennsylvania (hereinafter called the "Trustee"), party of the second part; and THOSE PERSONS who from time to time become parties hereto by purchasing Contract Certificates of Capital Savings Plan, Inc. hereinafter referred to and described (such persons being hereinafter called "Investors"), parties of the third part;

WHEREAS, the Company has full power and authority to execute and to sell from time to time Contract Certificates upon an instalment basis, with or without insurance protection and/or full paid Certificates, of the form and tenor attached hereto and made a part hereof as Exhibits "A" and "B", together with such other Contract Certificates as from time to time may be necessary or desirable upon the adoption by resolution of the directors of the Company and the approval of the Trustee; and

WHEREAS pursuant to the terms of said Contract Certificates and to the extent therein provided, the Trustee will purchase for the Investors Independence Trust Shares, or, upon substitution by the Company, as hereinafter provided, other trust shares or receipts of banks, trust companies or banking institutions or certificates of deposit or of interest or of participation evidencing deposit of, or representing blocks of, underlying securities reasonably comparable to the securities underlying Independence Trust Shares (hereinafter called "Trusted Property"); and

WHEREAS, the Trustee has agreed and does hereby agree, in accordance with the terms of said Contract Certificates to hold in trust the Trusteed Property so purchased by it from time to time for the Investors until maturity of any Contract Certificate or earlier termination thereof, as hereinafter provided; and

WHEREAS, the Company and the Trustee have authority to execute and deliver this Trust Agreement and have duly authorized the execution and delivery thereof,

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and the payments to be made by the Investors, and, in order to declare all terms and conditions relating to the Trusteed Property and to the holding thereof in Trust by the Trustee, the parties hereto, each for itself and himself and not on behalf of any other party, agree each with the other as follows:

## ARTICLE I.

### DESCRIPTION OF CONTRACT CERTIFICATES.

1. The Contract Certificates shall be issued by the Company without limit, from time to time as the Company shall determine. Every Certificate shall bear the date of the day of the month on which such Contract Certificate is issued. The issuance of all Contract Certificates shall cease ten years prior to the termination of a Deed of Trust dated April 2, 1930 entered into by and between Independence Shares Corporation and The Pennsylvania Company for Insurances on Lives and Granting Annuities, Trustee, or ten years prior to the termination of any extension thereof; provided, however, that in the event a substitution of Trusteed Property be effected under Article VI hereof, the issuance of Contract Certificates shall cease ten years prior to the termination of such Deed or Deeds of Trust, or any extension or extensions thereof, securing such substituted Trusteed Property. All Contract Certificates (excepting

Half Contract Certificates which shall provide for total payments of \$600 and monthly payments of \$5.) shall provide for the payment by the Investor of the sum of \$1,200 or multiples thereof to the Trustee either (a) in instalments of \$10 per month or multiples thereof, for a period of ten years, payable on or before the same day of each month as the original date of the Contract Certificate, or (b) in one lump sum payment, and in the case of (a) may be accompanied by insurance on the life of the Investor, as hereinafter provided. The form of Contract Certificates shall be substantially the same as set forth in Exhibits "A" and "B" hereto attached. Contract Certificates shall be executed on behalf of the Company by the engraved or lithographed facsimile signature of its President, and the corporate seal thereunto attached, duly attested by the Secretary of the Company or any Assistant Secretary. No Contract Certificate shall be valid or obligatory for any purpose nor be entitled to any right or benefit under this Trust Agreement, unless and until the certificate of authentication and registration thereon endorsed shall have been executed by the Trustee through one of its authorized officers.

2. In case any of the officers of the Company who shall have executed any Contract Certificate issuable under this Trust Agreement shall cease to be such officer before such Contract Certificate shall be actually authenticated and delivered by the Trustee, such Contract Certificates shall nevertheless bind the Company as though the person who had executed the same had not ceased to be such officer of the Company, and the Company may adopt and use for the purpose of executing any Contract Certificate the engraved or lithographed facsimile signature of any person who shall have been President of the Company, notwithstanding the fact that he may not have been such President at the date of such Contract Certificate or that he may have ceased to be such President when such Contract Certificate is actually authenticated and delivered.



3. All Contract Certificates shall be registered upon the books of the Company, to be kept by the Trustee at its principal office, and the Trustee shall also keep a record of the address of each Investor and of all payments made by him under his Contract Certificate and of all additional credits and/or charges against such Investor's account. The Trustee shall send all notices to the Investors required by this Trust Agreement and any notice so required shall be sufficiently delivered if placed in the United States Mail by the Trustee with sufficient postage attached and addressed to the Investor at his address, as the same is recorded upon the books of the Trustee.

4. All Contract Certificates sold by the Company after May 16, 1934 shall be issued under the terms of this Trust Agreement and the entire issue of which each Contract Certificate is a part, shall be sold only to persons resident within the State of Pennsylvania.

5. All books pertaining to each Investor's account will be maintained and kept by the Trustee at its principal office in the City of Philadelphia, State of Pennsylvania. Monthly audits of the Trustee's books of account and records will be made for and at the expense of the Company by Messrs. Lybrand, Ross Bros. & Montgomery, or other certified public accountants duly licensed by the State of Pennsylvania, satisfactory to the Trustee and to the Company.

## ARTICLE II.

### OBLIGATIONS AND RIGHTS OF THE INVESTOR.

1. The Investor shall become a party to this Trust Agreement by becoming the purchaser of a Contract Certificate and shall make the payments to the Trustee called for by his Contract Certificate at the times and at the place set forth therein, without notice by the Trustee or the Company as to any instalment other than as set forth in the Contract Certificate. The Trustee, upon receipt of each payment, shall, provided such shares be available for pur-

chase, apply the same, less the deductions hereinafter provided for, not later than twenty days from the day on which such payment is made to the purchase at current market prices of Independence Trust Shares issued under an Agreement and Declaration of Trust between Independence Shares Corporation and The Pennsylvania Company for Insurances on Lives and Granting Annuities, dated as of April 2, 1930, or such other Trust Shares as the Company, as hereinafter in Article VI provided, may substitute for Independence Trust Shares. All Independence Trust Shares (or substituted Trust Shares) so purchased shall be registered in the name of the Trustee or its nominee. The Trustee shall not be required to receipt to the Investor for any monthly payment made by him. The Trustee shall deduct from the monthly instalments received by the Trustee from the Investor, to cover all legal, administrative and collection expenses and the cost of life insurance in the case of a Contract Certificate accompanied by life insurance, the following: (a) from each monthly instalment paid, a sum not in excess of Twenty Five Cents (\$.25) for each \$10 payment or fraction thereof, which shall be retained by the Trustee to provide for the expense of administering the Trust hereby created, including the compensation of the Trustee; (b) from each monthly instalment paid on a Contract Certificate accompanied by life insurance, a sum sufficient to discharge the insurance premiums as they become due, which the Trustee shall pay as agent for the Company to the Insurance Company; (c) from the first twelve monthly instalments paid, a sum in the aggregate not in excess of the rate of Sixty Dollars (\$60.00) for each Twelve Hundred Dollars (\$1200) agreed to be paid in on each Contract Certificate which shall be paid by the Trustee to the Company to be retained by the Company as its full service charge for the entire period during which the Contract Certificate shall continue in force, said service charge to be deducted from all or any such instalments in such proportion as the Company shall from time in writing direct. The balance if any

remaining in the hands of the Trustee from each monthly instalment, after making the deductions hereinabove provided for, shall be invested by the Trustee in "Trusted Property" for the account of the Investor. The Company shall in no event be liable or accountable to the Trustee or to the Investor, nor shall the Investor have any right to, nor shall the Company be obligated for the repayment to the Investor of any part of the sums so paid to the Company hereunder.

2. The Trustee shall hold in its name as Trustee all Trusted Property purchased by it, in Trust, for each of the several Investors in the proportions to which they may be respectively entitled, pursuant to the terms of this Trust Agreement and the Contract Certificates.

3. The Trustee shall collect all payments, dividends and/or distributions from time to time made upon the Trusted Property, and shall, within twenty days of receipt thereof, apply the same to the purchase of available additional Trusted Property and likewise hold the same in trust for the several Investors.

4. Upon completion of the instalments payable by any Investor holding a Contract Certificate in the form hereto attached and marked Exhibit "A" or "B" or upon the maturity of a full paid Contract Certificate as hereinafter set forth, the Trustee shall notify the Investor in writing of the completion of such payments, and thereupon such Investor may, upon surrender to the Trustee of his Contract Certificate, exercise any one of the following options: (a) Direct the Trustee to deliver to the Investor the portion of the Trusted Property to which he is entitled; or (b) direct the Trustee to sell at current market prices the portion of Trusted Property to which he is entitled and pay over the proceeds thereof; or (c) direct the Trustee, in writing, to hold the portion of Trusted Property to which he is entitled for a period of ten years from the date of such completion, in Trust, for the account of the Investor. During



such extended period, the Trustee shall collect all payments, dividends and/or distributions from time to time made upon the Trusteed Property and all other obligations and rights of the Company, the Trustee and the Investor shall continue and be the same as they were prior to the exercise of such option by the Investor. At the end of such extended period, the Trustee shall notify the Investor, in writing, of such fact, and thereupon the Investor shall have either of the other options herein set forth.

During each year of such extended period, the Trustee shall be entitled to deduct from all payments, dividends and/or distributions from time to time made upon the Trusteed Property a sum not in excess of two-tenths of one per cent (2/10 of 1%) per annum of the total amount paid in on such Contract Certificate as its charge and compensation for the expense of administering the Trust during such period.

Any Investor, upon the completion of the payments payable under his Contract Certificate and upon the exercise of this option (c), shall be entitled to the option provided in Section 9 of this Article II of this Trust Agreement.

Upon the exercise either of option (a) or (b) by any Investor, the Trustee shall, within a period of ten days from receipt of notice thereof, proceed (a) to obtain transfer of the Trusteed Property to which such Investor may be entitled into his name or the name of his nominee and to make delivery of the same; or (b) to sell the proportion of the Trusteed Property to which the Investor is entitled at current market prices and to pay over the proceeds thereof to the Investor or his assignee. Any fraction of a share of Trusteed Property to which the Investor shall be entitled shall be sold at current market prices and the proceeds paid in cash by the Trustee.

Payment of the necessary transfer stamps or other transfer charges required to be paid by the Trustee, shall be made to the Trustee by the Investor or shall be deducted



by the Trustee from the proceeds due to the Investor upon the exercise of any option by any Investor who shall have completed all instalment payments.

5. Anything to the contrary herein notwithstanding, any Investor shall have the absolute right to terminate his Contract Certificate at any time whatsoever, and in such event and upon surrender of his Contract Certificate to the Trustee shall thereupon become entitled to exercise either option (a) or (b) as specified in Section 4 of this Article II above set forth, with respect to so much of the Trusteed Property as he may be entitled to at the time of such withdrawal.

6. Any Investor who shall default in the payment of any instalment when due shall be considered as having terminated his Contract Certificate and shall be bound by the provisions of Section 5 of this Article II; provided that, in case of termination by default and neither option shall have been exercised by the defaulting Investor, he may within a period of six months from the due date of the first payment defaulted upon, reinstate his Contract Certificate upon the payment to the Trustee of all unpaid instalments, but life insurance, if any, shall not be reinstated until approved by the Insurance Company.

Upon reinstatement, the Trustee shall within twenty days thereafter apply the sums paid by the Investor, less the payments to the Company if any are then due and unpaid, the deductions for the Trustee and deductions for the payment of the insurance premiums on Contract Certificates accompanied by life insurance, to the purchase of Trusteed Property at the then current market prices.

Upon default, as herein set forth, and until the exercise by the Investor of either option or reinstatement of his Contract Certificate, the Trustee shall for a period of six months from date of default continue to hold the share of the defaulting Investor in the Trusteed Property, in addition to any payments, dividends and/or distributions made

upon such share of Trusteed Property during the period of default, for his account. After six months from date of default the Trustee may, without notice to the Investor, sell at current market prices the share of the defaulting Investor in the Trusteed Property, and thereafter hold the proceeds for his account and pay the same to such Investor upon demand therefor, accompanied by surrender of his Contract Certificate. Such payment shall constitute a complete discharge to the Trustee and the Company and the interest of the Investor in the Trusteed Property and all rights under his Contract Certificate shall thereupon cease.

7. Any Investor who shall not be in default with respect to any payments due and owing under the terms of his Contract Certificate may give written notice to the Trustee of his desire to accept delivery of the Trusteed Property, or any part thereof, which up to that time has been purchased for his benefit and in such event and upon payment to the Trustee of \$2.00 to be retained by it as its fee for complying with said notice and in addition the amount required for necessary transfer stamps and other transfer charges required to be paid by the Trustee, the Trustee shall proceed to obtain transfer of said Trusteed Property into his name, or into the name of his nominee, and to make delivery of the same, provided, however, that the Trustee shall retain any fractional shares as Trusteed Property for the benefit of the Investor. Thereafter the Investor shall continue his payments in accordance with his Contract Certificate and the Trustee shall invest the same less deductions, in Trusteed Property under the terms of this Trust Agreement as though the Investor had not withdrawn any part of the Trusteed Property: Before any Investor shall be entitled to receive any Trusteed Property under this provision, he shall be required to surrender his Contract Certificate to the Trustee for the purpose of noting thereon delivery of Trusteed Property to him.

8. In case of a Full Paid Contract Certificate, the Trustee shall execute the "Full Paid" endorsement thereon and

shall forthwith apply the payment made thereon (less a sum not in excess of two and one-half per cent ( $2\frac{1}{2}\%$ ) of the total amount paid in on such Contract Certificate to be paid by the Trustee to the Company as its full service charge for the entire period during which the Contract Certificate shall continue in force; provided, however, in the event an installment Contract Certificate is converted into a full paid Contract Certificate pursuant to the terms of this Trust Agreement, the Investor shall be entitled to a credit for but shall not be entitled to be reimbursed for, any deductions made previous thereto, pursuant to the terms of Section 1 of this Article II) to the purchase of Trusteed Property, and shall continue to hold the same for the benefit of the Investor owning such full paid Contract Certificate. All distributions upon the Trusteed Property applicable to such full paid Contract Certificate shall be collected by the Trustee and applied to the purchase of additional Trusteed Property until maturity of such full paid Contract Certificate (which shall be ten years from the date thereof) or earlier termination thereof. From and after the date at which a Contract Certificate shall be full paid the Trustee shall deduct from all payments, dividends and/or distributions from time to time made upon such Trusteed Property, a sum not in excess of two-tenths of one per cent ( $2/10$  of 1%) per annum of the total amount paid in on such Contract Certificate as its charge and compensation for the expense of administering the Trust during the time that said Full Paid Contract Certificate shall continue in force in lieu of, but in addition to, the deductions if any theretofore made for the account of the Trustee under the provisions of Article II, Section 1 (a). Any Investor may at any time convert an installment Contract Certificate into a full paid Contract Certificate by paying to the Trustee the aggregate of all remaining unpaid instalments due thereon.

9. Any Investor holding a Full Paid Contract Certificate shall have the right at his option to direct the Trustee, in writing to pay over to such Investor all or any part of



the cash distribution from time to time made to the Trustee upon the Trusteed Property, and thereupon the Trustee shall forthwith pay over such sums so directed to be paid to the Investor. After receipt of such notice, the Trustee shall continue to make such payments to the Investor as and when such cash is received by the Trustee as distribution upon the Trusteed Property until such time as the Investor shall, in writing notify the Trustee to discontinue such payments. The Investor shall have no right to direct the Trustee to pay over to him any distributions made to the Trustee upon the Trusteed Property other than those made in cash.

In the event the Investor exercises the option provided in this Section 9, or has exercised option (c) provided for in Section 4 hereof, the Trustee shall have the right, before making such payment, to first deduct the two-tenths of one per cent ( $2/10$  of 1%) per annum of the total amount paid in on such Contract Certificate which may be then due for its charge and compensation for the expense of administering the trust during such period.

10. The Company may adopt for execution by Investors a uniform Declaration of Trust, the form and provisions of which shall be satisfactory to the Trustee, providing, inter alia, that the Investor holds all his right, title and interest in the Trusteed Property mentioned in his Contract Certificate in trust for a certain named beneficiary but reserves the right to revoke the trust without such beneficiary's consent. Such uniform Declaration of Trust shall contain such other terms and conditions as shall be satisfactory to the Trustee, but the form thereof in use may be changed from time to time at the option of the Company provided the changes are satisfactory to the Trustee.

11. Any Investor may, upon or after the issuance to him of a Contract Certificate, execute and file with the Company a writing in form satisfactory to the Company, authorizing the Company to cause such Investor's Contract Certificate to be liquidated by the Trustee when the Trus-



teed Property to which the said Investor is entitled has attained a net market value of Two Thousand Dollars (\$2,000) in relation to each Twelve Hundred Dollars (\$1,200) agreed to be paid in on said Certificate by said Investor. Upon the execution and filing with it of such authorization of liquidation, the Company shall, when and as said net market value has been attained, notify the Trustee to sell the Trusteed Property to which the said Investor is entitled and to pay over to the said Investor the entire net proceeds of such sale upon the surrender to the Trustee by the Investor of the Contract Certificate so liquidated. Upon such liquidation the Company shall forthwith give written notice thereof to the Investor. Any such authorization of liquidation may be revoked by the Investor at any time before such liquidation has been effected by the giving to the Company by the Investor of written notice of the said Investor's desire to effect such revocation, and shall be revoked by any earlier termination of the Contract Certificate under any of the provisions of this Trust Agreement.

12. In case any Investor shall fail or neglect to exercise any option he may be entitled to exercise under this Trust Agreement (a) upon the maturity of his instalment Contract Certificate, or at the expiration of the extended period of his instalment Contract Certificate, or (b) upon the expiration of the period provided in any Full Paid Contract Certificate, or (c) upon the termination of any Contract Certificate in any manner or for any cause provided in said Trust Agreement, the Trustee may give such Investor notice that unless he exercises one of the options he is then entitled to exercise within thirty days from the date of said notice, the Trustee will exercise on his behalf option (b) as provided in Section 4 of this Article. Unless such Investor shall within said thirty day period elect to exercise one of the options he is then entitled to exercise under this Trust Agreement, the Trustee shall exercise said option (b) on his behalf and shall hold the net proceeds of the Trusteed Property sold for the Investor

without interest to be paid over to him upon the surrender of his Contract Certificate. Such payment shall constitute a complete discharge to the Trustee and the Company and the interest of the Investor in the Trusteed Property and all rights under his Contract Certificate shall thereupon cease. Unless the Trustee shall give such notice to the Investor, the Trustee shall continue to hold the Trusteed Property for the Investor, applying all distribution thereon collected by the Trustee to the purchase of additional Trusteed Property, or if directed by the Investor pursuant to Section 9 of this Article, paying over to the Investor cash distributions collected by the Trustee. Until the Trustee shall have given such notice, any Investor may exercise any option he is entitled to exercise under this Trust Agreement no matter how long he may have delayed, and likewise, the Trustee may delay the giving of said notice to Investor until such time as it may elect, so long as the Investor in the meantime has not exercised an option.

### ARTICLE III.

#### CONCERNING INSURANCE ON THE LIVES OF INVESTORS.

The Company has arranged for life insurance upon the life of any Investor holding a Contract Certificate in the form attached hereto and marked Exhibit "A", under a blanket life insurance policy, during the terms of such Contract Certificate, or for a period of sixty days after any default by the Investor, provided the Investor be in good health and acceptable at the time of the execution of his Contract Certificate. Said policy provides that, subject to that limitation and to the terms, conditions and privileges set forth in said policy, upon receipt of due proof of death of the contract holder occurring while said policy is in force and while insured thereunder, the Insurance Company issuing such policy will pay to the Trustee the amount equal to the difference between the total amount of payments to be made by the contract holder under the terms of his Con-

tract Certificate and the amount which the contract holder has paid thereunder, but in no event in excess of Nine Thousand, Six Hundred Dollars (\$9,600). All policies of insurance shall be held by the Trustee and shall be payable to the Trustee and the premiums shall be paid by the Trustee, all as agent for the Company, but only when and as payments are made to the Trustee by the Investors or by someone on their behalf, in accordance with the terms of their Contract Certificates. The Trustee shall deduct from the payments made by the Investor holding a certificate accompanied by life insurance an amount for premiums for the account of the Company and pay the same as agent for the Company to the Insurance Company or Companies. The benefits of any life insurance policy will not be available to the Trustee or the Company if (a) the holder of the Contract Certificate shall commit suicide while either sane or insane within two years from the date of the Contract Certificate or (b) the holder of the Contract Certificate shall die while more than sixty days in default under his Contract Certificate, or (c) the holder of the Contract Certificate has made any material misstatements in his application for his Certificate, which application is to be a part of the Contract Certificate as though actually attached thereto.

In case of the death of any Investor and receipt by the Trustee of the proceeds of the policy of life insurance under which the life of such Investor is insured, the Trustee shall within twenty days, apply such proceeds, with no further deductions, to the purchase of Trusteed Property at current market prices and the Contract Certificate of the deceased Investor shall thereupon become full paid and all rights thereunder shall pass to the duly qualified personal representative or representatives of the deceased Investor or to the then Trustee under any outstanding and unrevoked Declaration of Trust.



ARTICLE IV.

CONCERNING THE TRUSTEE.

1. The Trustee shall not be in any way liable or responsible for anything done or omitted to be done by the Trustee hereunder in good faith, or for or in respect of any matter or thing in connection with this Trust Agreement, or with the Trusteed Property, except for the failure to exercise due care in the safekeeping and delivery of the Trusteed Property, or the proceeds thereof, as herein provided.

2. The Trustee does not assume or incur any liability, duty or obligations (other than as expressly provided for herein and in the Contract Certificates of the Company) to any Investor or to the Company, and the Trustee shall in no event be liable to any Investor or to the Company if, by reason of any present or future law of the United States of America or of any state thereof, this Trust Agreement or anything herein contained shall be declared invalid, or if for any cause not within its reasonable control the Trustee shall be in any way hindered, prevented or restrained from doing or performing any act or thing which it is required to do or perform by the terms of this Trust Agreement and/or the Contract Certificates.

3. The Trustee shall not be under any obligation to take any action toward the execution of any of the provisions of this Trust Agreement except its own covenants, or to appear in, prosecute or defend any action, which action in its opinion may involve it in expense or liability, or sue for or collect the proceeds of any insurance policy, unless, as often as required by the Trustee, it shall, after requests to the Company and/or the Investor, be furnished with reasonable security and indemnity against such expense or liability.

4. The Trustee may employ agents or attorneys-in-fact and shall not be answerable for the default or misconduct of any such agent or attorney if such agent or attorney shall



have been selected with reasonable care, and the Trustee shall be fully protected in respect of any action under this Trust Agreement taken or suffered in good faith by the Trustee in accordance with the opinion of its counsel and in acting upon any resolution, vote, declaration, request, demand, order, notice, waiver, appointment, consent, certificate, affidavit, statement or market report or upon any other paper or document believed by it to be genuine, and to have been passed, signed, executed, acknowledged, verified, published or delivered by the proper party.

5. For proof of any fact, the Trustee may rely on a certificate with respect thereto signed by any two of the following officers, to wit: the President, a Vice-President, the Treasurer, the Secretary or an Assistant Secretary of the Company, and the Company may rely on a certificate with respect to any fact which has been signed by any two of the following officers, to wit: the President, a Vice-President, the Treasurer, the Secretary or an Assistant Secretary of the Trustee.

6. The person in whose name a Contract Certificate shall be registered shall for all purposes be deemed and regarded as the owner thereof and the Trustee shall not be affected by any notice to the contrary. In regard to distributing the share of the Trusteed Property and/or cash to which the Investor may be entitled or the proceeds of such Trusteed Property, the Trustee, without liability on its part, shall be entitled to rely upon the orders received from the person in whose name such Contract Certificate is registered as to the distributions thereof.

7. The Trustee shall hold all moneys or Trusteed Property received by it hereunder and may deposit the same in its banking department until required to disburse same in accordance with the provisions of this Trust Agreement and the Contract Certificates; and the requirements and benefits of any rule of law or statute now or hereafter in force regarding the investment or segregation of trust

funds are hereby waived with respect to such moneys or Trusteed Property. Nothing herein contained shall be deemed to require the Trustee to hold any part of the Trusteed Property for any particular Investor or to segregate the proportionate interest of any Investor in the Trusteed Property until Contract Certificates therefor shall be surrendered to the Trustee for cancellation.

8. All Trusteed Property purchased by The Pennsylvania Company for Insurances on Lives and Granting Annuities, as Trustee or otherwise for the Investor, pursuant to the terms of this Trust Agreement or of the Contract Certificate or of any instructions received from the Investors, pursuant to any provision hereof, shall be purchased through such dealer or dealers in securities as shall be designated by the Company and approved by the Trustee and the Trustee shall be absolutely protected and incur no liability of any kind by reason of the purchase or sale of the Trusteed Property through such dealer or dealers as shall be designated by the Company in respect to the price paid or received therefor. The Trustee under no circumstances shall be liable for any delay in the purchase of any Trusteed Property except for wilful default.

9. The Trustee shall not be responsible or liable for the placing of any Life Insurance or for the terms and conditions of any policy issued on the life of any Investor or the sufficiency or responsibility of the Insurer nor shall the Trustee in any event be responsible to any Investor or holder of a Contract Certificate by reason of any failure or inability of the Trustee to collect the proceeds of any policy of Life Insurance upon the death of any Investor.

10. The Trustee shall not be personally liable for any assessment made on the Trusteed Property held by it, or for any taxes or other governmental charges imposed upon the Trusteed Property, or upon the income therefrom, or upon it as Trustee hereunder, or upon the Contract Certificate which it or the Company may be required to pay

under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein, and if so required shall be entitled to reimburse itself from the dividends and/or distributions herein referred to, and/or from the Trusteed Property, and/or be reimbursed by the Investors and/or the Company, in the order named.

11. Any duty imposed upon the Trustee on or before a day certain shall, if such day certain falls on a Sunday or holiday, be considered as fulfilled if carried out on the next succeeding business day.

12. In the event that there is a substitution of Trusteed Property, as hereinafter in Article VI or Article VIII provided, the Trustee shall incur no liability to any Investor by reason thereof.

#### ARTICLE V.

##### RESIGNATION OR REMOVAL OF TRUSTEE.

1. The Trustee at any time may resign upon six calendar months written notice to the Company and may be thereupon relieved from its obligations under this Trust Agreement with respect to any Contract Certificates issued after the effective date of such resignation by publishing a notice specifying a date when such resignation shall take effect, once a week for four successive calendar weeks (in each instance on any day or days of the week), in one daily newspaper published in the English language and of general circulation in the City of Philadelphia, State of Pennsylvania, the first publication in each newspaper to be made at least sixty days prior to the date specified in such notice on which such resignation shall take effect. Such resignation shall take effect on the day specified in such notice, unless prior to such date a successor trustee shall have been appointed as hereinafter provided.

Prior to the date specified by the Trustee in said notice when its resignation shall take effect, the Company by in-



strument executed and under its corporate seal, by order of its Board of Directors, and mailed to the Trustee at its principal office in the City of Philadelphia and State of Pennsylvania, shall appoint a successor trustee to fill any vacancy caused by the resignation of the Trustee, such instrument to be accompanied by a statement in writing by the successor Trustee so appointed accepting such appointment. After such appointment by the Company, the successor trustee shall forthwith cause notice of its appointment to be published at least once a week for two successive calendar weeks (in each instance upon any day or days of the week) in a daily newspaper published in the English language and of general circulation in said City of Philadelphia.

2. On written notice served upon the Trustee, the Company may remove the Trustee and/or any successor Trustee and the Trustee so removed shall have no obligations hereunder with respect to Contract Certificates issued after the effective date of such removal. The removal of the Trustee shall take effect on the day specified in the notice thereof, which day shall not be less than sixty days from the date of such service, unless previous to the date so fixed in any such notice a successor trustee shall have been appointed and shall have accepted such appointment in the manner hereinbefore provided, in which event such removal shall take effect immediately upon the appointment and acceptance by such successor trustee. Upon the removal of the Trustee the Company shall appoint a successor trustee and shall advertise such removal and appointment in the manner provided in Section 1 of this Article V.

3. Every Trustee hereunder shall be a bank or trust company organized and existing under the laws of one of the states of the United States, or a national banking institution incorporated under the laws of the United States, having trust powers and a capital and surplus of at least two million dollars.



Upon the appointment of any successor trustee, all rights, powers and duties of the Trustee hereunder with respect to all Contract Certificates issued after the effective date of such appointment shall immediately vest in the new trustee without any further act, conveyance or transfer. All fees and disbursements of the retiring trustee if any, other than those deductible as hereinbefore set forth from payments to be made by the Investors, shall be paid at or prior to the time of the delivery by it of the Trusteed Property.

4. Every appointment of a new trustee shall be in writing and executed in triplicate, one copy thereof being filed with the Company, one copy with the successor trustee, and one copy with the retiring trustee, which shall also receive a duplicate copy of the written acceptance of the successor.

5. Any company into which the Trustee may be merged or with which it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee shall be a party, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything to the contrary notwithstanding; provided, however, that such new company shall be qualified as hereinbefore provided.

## ARTICLE VI.

### SUBSTITUTION OF TRUSTEED PROPERTY.

1. At any time at its option, and upon notice to the Trustee, the Company may substitute for Independence Trust Shares or for any other substituted Trusteed Property shares of any investment trust having underlying securities of a standard nature and diversified in character, which said underlying securities are reasonably comparable to the securities underlying said Independence Trust Shares or, in case such shares are not available or the pur-

chase of the same is impracticable, receipts of banks, trust companies or banking institutions approved by the Trustee, or certificates of deposit or of interest or of participation issued by banks, trust companies or banking institutions approved by the Trustee evidencing deposit of, or representing blocks of underlying securities reasonably comparable to the securities underlying Independence Trust Shares in amounts or units reasonably comparable to the certificates for Independence Trust Shares if, in the judgment of the Company, such latter investment would be more beneficial to the Investor, provided that, if certificates representing Trust Shares of a similar nature to Independence Trust Shares or such receipts or certificates of deposit or of interest or of participation be purchased, they shall involve fees for issuance and deposit or percentage for distribution and profit no greater than those charged by Independence Shares Corporation at the time of such substitution. No such substitution may be made, however, until the Company shall have notified the Trustee in writing concerning the same, giving a reasonable description of the proposed substituted Trusteed Property, and unless the Company has, prior to such substitution, given to all Investors thirty days written notice of its desire to make such substitution, giving a reasonable description of the proposed substituted Trusteed Property and advising the Investors that if they do not desire the Trustee to accept such substituted Trusteed Property, they must, within thirty days from the date of such notice, surrender their Contract Certificates to the Trustee for withdrawal as provided herein. After the Company has given such notice to the Trustee and has also certified to the Trustee that it has given such thirty days notice to all Investors, the Trustee shall, after the expiration of such thirty day period, purchase for all Investors who have not withdrawn, the Trusteed Property so substituted. All Investors who do not surrender their Contract Certificates for withdrawal within said thirty day period shall

be conclusively deemed to have consented to such substitution. The right of substitution herein given to the Company may be exercised by it from time to time and as often as may be necessary.

## ARTICLE VII.

### POWERS AND IMMUNITIES OF THE COMPANY AND ITS STOCKHOLDERS, ETC.

1. The Company may designate as dealers from whom Trusteed Property is to be purchased persons, firms and/or corporations who are, or any of the members of which are, officers, directors and/or stockholders in the company, or who may have a controlling interest therein directly or indirectly, and shall incur no liability to any Investor or to the Trustee by so doing.

2. Upon any substitution of any Trusteed Property, as hereinabove provided, such substituted Trusteed Property may be issued and provided by the Company itself or by any other corporation or firm owned or controlled by the Company, or by any of its officers, directors and/or stockholders directly or indirectly.

3. In the event that there is any substitution of Trusteed Property as hereinabove in Article VI or hereinafter in Article VIII provided, the Company shall incur no liability to any Investor or to the Trustee by reason of such substitution.

4. No recourse under or upon any obligation or agreement contained in this Trust Agreement or in the Contract Certificates shall be had against any incorporator, stockholder, officer or director, present or future, of the Company, or of any successor company, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, it being expressly agreed and understood that this Trust Agreement and the Contract Certificates are solely corporate obligations and

that no personal liability whatever shall attach to or be incurred by the incorporators or by any past, present or future stockholders, officers or directors of the Company or any successor company.

#### ARTICLE VIII.

1. In case one or more of the following events shall happen, that is to say, (1) if the Trustee resigns or is removed and the Company is unable to, or does not, procure a successor Trustee because of a refusal to accept the Trust hereby created; (2) if the Company shall, by written notice to the Trustee, declare this Trust Agreement terminated either forthwith or upon such date as may be set forth in such notice, not, however, exceeding sixty days from delivery thereof; (3) in any event, ten years prior to the termination of a Deed of Trust dated April 2, 1930, entered into by and between Independence Shares Corporation and The Pennsylvania Company for Insurances on Lives and Granting Annuities, or ten years prior to the termination of any extension thereof; provided, however, that, in the event a substitution of Trusteed Property be effected under Article VI of this Trust Agreement, ten years prior to the termination of such Deed or Deeds of Trust, or any extension or extensions thereof, securing such substituted Trusteed Property; then and in every such case this Trust Agreement shall be considered terminated and no more Contract Certificates shall be issued under the terms of this Trust Agreement, but no such termination shall affect the right of the Investor to continue his Contract Certificate to maturity in accordance with the terms thereof and of this Trust Agreement, if he so desires, without said continuance being affected in any way by such termination.

2. If for any reason whatsoever Independence Trust Shares or any Trusteed Property substituted therefor shall cease to be available for purchase by the Trustee and the Company shall, for a period of sixty days after notice



thereof from the Trustee, fail or refuse to provide other Trust Shares, receipts or certificates of deposit or of interest or of participation, as hereinbefore in Article VI provided, then and in such event the Trustee will select for investment such shares, receipts or certificates of deposit or of interest or of participation as are available on the market which, in the opinion of the Trustee, represent blocks of underlying securities comparable to the securities underlying Independence Trust Shares and shall give notice to the Investor of such selection and, unless the Investor within thirty days thereafter advises the Trustee that he agrees to the substitution and purchase of such shares, receipts or certificates of deposit or of interest or of participation, the Contract Certificate shall be automatically terminated, subject to all of the provisions of this Trust Agreement with respect to termination as though a notice of termination had been filed by the Investor with the Trustee.

3. If for any reason Independence Trust Shares, or such other Trusteed Property as may have been substituted therefor in accordance with the provisions of this Trust Agreement, shall be available for purchase only at a price which the Trustee shall deem unreasonable, the Trustee may, but shall in no event be obligated to, give notice thereof to the Company, and within sixty (60) days after receipt of such notice the Company may substitute other Trust Shares or other securities in accordance with the provisions of Article VI hereof. If the Company shall fail to provide such substituted Trusteed Property within sixty (60) days after receipt of such notice, the Trustee may, but shall not be obligated to, select as substituted Trusteed Property hereunder such shares, receipts or certificates of deposit or of interest or of participation, as hereinabove in Article VI hereof described, as are available on the market, and which, in the opinion of the Trustee, represent blocks of underlying securities comparable to the securities underlying Independence Trust Shares, and shall give

notice to each Investor of such selection. If within thirty (30) days after such notice has been given by the Trustee the Investor shall advise the Trustee in writing of his consent thereto, the trust shares, receipts or certificates of deposit or of interest or of participation so selected by the Trustee shall be substituted as in the case of Trusteed Property substituted by the Company under the provisions of Article VI hereof. Unless the Trustee shall receive such written consent within thirty (30) days after notice of such substitution shall have been given, the Contract Certificate of the Investor so refusing or failing to consent shall be automatically terminated, subject to all of the provisions of this Trust Agreement with respect to termination, as though notice of termination had been filed by the Investor with the Trustee, but the Investor shall have no right to reinstate his Contract Certificate after such thirty (30) day period.

During the sixty (60) day period hereinabove referred to, or unless sooner notified by the Company of a substitution of Trusteed Property, the Trustee shall invest all payments received in Trusteed Property, notwithstanding such notice to the Company. During the thirty (30) day period hereinabove referred to, unless sooner notified by the Investor of his agreement to such substitution, the Trustee shall not invest any payments received from any Investor in Trusteed Property, but shall hold the same for the account of the Investor.

## ARTICLE IX.

### AMENDMENTS AND SUPPLEMENTAL AGREEMENTS.

1. The Company and the Trustee, without notice to or consent of, the holders of Contract Certificates, are hereby authorized to join in the execution of any Supplemental Trust Agreement or Agreements and to make such further covenants and conditions therein in relation to this Trust Agreement not inconsistent with the general terms hereof as may be necessary or desirable to carry out the

intent and purposes of this Trust Agreement and the provisions of the Contract Certificates now issued, and to join in the execution of any amendment or amendments altering, changing, restricting or enlarging any and/or all of the provisions of this Trust Agreement; always provided, however, that no such alteration, change, restriction or enlargement shall affect the rights of the holders of Contract Certificates issued prior to the date of such alteration, change, restriction or enlargement.

## ARTICLE X.

### DEFINITIONS AND GENERAL PROVISIONS.

1. The term "Investor" and any reference thereto shall be taken to include the feminine as well as the masculine gender and shall also be taken to include the executors, administrators or other legal representatives of a deceased holder of the Contract Certificate.

The term "Trust Agreement" as used herein, shall include this Trust Agreement and every agreement supplemental thereto which may be entered into by the Company and the Trustee subsequent to the date hereof.

The term "Trustee" shall be construed to mean the Trustee hereunder for the time being, whether the original Trustee or a successor.

The term "Company" shall be taken to mean Capital Savings Plan, Inc., organized and existing under the laws of the State of Pennsylvania, or any successor of such corporation formed pursuant to the reorganization, consolidation or merger of such corporation, and this Trust Agreement shall inure to the benefit of any and bind any such successor corporation.

The term "Trusted Property" shall be taken to include Independence Trust Shares and/or any Trust Shares or receipts or certificates of deposit or of interest or of participation substituted therefor, as provided in Article VI and in Article VIII hereof, which may be purchased by

the Trustee and held by it under the terms of this Trust Agreement.

2. Notice of the election by any Investor of any option herein provided for shall be in writing and delivered to the Trustee before the same shall be considered as made and, when so delivered, shall constitute full and complete authority to the Trustee to carry out on behalf of the Investor the option elected by him.

3. Any Contract Certificate, if in force and not cancelled on the books of the Trustee, may be assigned to any individual acceptable to the Company, but the Assignment or transfer thereof shall not be valid without the consent in writing endorsed thereon by the Company after proper application has been made and \$1.00 has been paid to the Company to be retained by it as its service fee, and the Assignee has endorsed thereon his acceptance of the terms of said Contract Certificate and the Company shall have duly notified the Trustee of its approval of said Assignment. From then and thereafter the Assignor-Investor shall be relieved and discharged of all obligations and duties under, and shall have no further rights or interests in, his Contract Certificate or this Trust Agreement, and the Assignee-Investor shall be deemed and taken to have become substituted in the place and stead of the Assignor-Investor. Upon such Assignment and consents, the insurance benefits, if any, in said Contract Certificate will terminate as to the investor but the said insurance benefits will be extended to the Assignee subject to the approval of the Company, of the Trustee and of the Insurance Company. In the event that such Assignee is unable to obtain the benefit of any insurance accompanying the Contract Certificate assigned to him, from then and thereafter the deductions from the payments to be made by the Assignee-Investor under the terms of this Trust Agreement after the date of such assignment shall be the same as though said Contract Certificate was not originally accompanied by life insurance.



4. The Investor, by becoming a party to this Trust Agreement, appoints the Trustee his true and lawful attorney to perform and carry out the terms hereof and to purchase, hold, sell and/or transfer in the manner, for the purposes and at the times herein set forth that portion of the Trusteed Property to which the Investor is or may become entitled, hereby ratifying and confirming all that his said attorney shall lawfully do by virtue hereof.

5. The provisions hereof shall be construed according to, and all rights hereunder shall be governed by, the laws of the State of Pennsylvania.

6. Any notice to be given by the Trustee to the Company hereunder shall be duly given if mailed or delivered to the Company at such address as shall be specified by the Company to the Trustee in writing.

7. Any notice to be given to the Trustee hereunder shall be duly given if mailed to the Trustee at its principal office in the City of Philadelphia and State of Pennsylvania.

8. Any notice to be given to any Investor hereunder shall be duly given if mailed to such Investor at his address then appearing upon the registry books of the Company kept by the Trustee.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument. An executed copy of this Trust Agreement shall be permanently on file at the principal office of the Trustee and shall be open to inspection by any Investor at any reasonable time or times.

IN WITNESS WHEREOF, Capital Savings Plan, Inc. has caused this Trust Agreement to be executed in its name by its President and its corporate seal to be hereunto affixed and attested by its Secretary; and The Pennsylvania Company for Insurances on Lives and Granting Annuities, as Trustee as aforesaid, has caused this Trust Agreement to

be executed in its name by one of its Vice Presidents and its corporate seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary as of the day and year first above written.

**CAPITAL SAVINGS PLAN, INC.**

By **ALFRED H. GEARY**

(Corporate Seal)

*President*

Attest:

**ROBERT A. BONNER**

*Secretary*

**THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES**

By **FRANK G. SAYRE**

(Corporate Seal)

*Vice-President*

Attest:

**LEWIS M. EVANS**

*Asst. Secretary*

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# CAPITAL SAVINGS PLAN CONTRACT CERTIFICATE

ACCOMPANIED BY INSURANCE

AGREEMENT made by and between CAPITAL SAVINGS PLAN, INC. (hereinafter called "Company"), and

WHEREAS, the Investor desires to become a party to a certain Agreement of Trust dated as of May 1, 1934, entered into between the Company and THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, as Trustee and such persons as may from time to time become parties thereto (hereinafter called the "Trust Agreement"), wherein it is provided that the Investor shall make monthly cash payments to the Trustee over a period of ten years for investment in Independence Trust Shares Certificates or, as provided, in said Trust Agreement, in other trust shares or receipts of banks, trust companies or banking institutions, or certificates of deposit or of interest or of participation evidencing deposit of, or representing blocks of, underlying securities reasonably comparable to the securities underlying Independence Trust Shares (hereinafter called "Trusteed Property"); and

WHEREAS, said Trust Agreement provides that the Investor, by purchasing an agreement in the form of this agreement, upon authentication thereof on behalf of the Trustee, shall become a party to said Trust Agreement and become entitled to all the rights and privileges, limitations and conditions therein set forth;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, this agreement

Witnesseth:  
The Investor agrees to pay to The Pennsylvania Company for Insurances on Lives and Granting Annuities, the Trustee, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in \_\_\_\_\_

TEN ANNUAL  
TWENTY SEMI-ANNUAL  
FORTY QUARTERLY  
ONE HUNDRED TWENTY MONTHLY } equal payments of \$ \_\_\_\_\_ each,

receipt of the first \_\_\_\_\_ of which, to wit, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) by the said Trustee is hereby acknowledged. The Investor further agrees to make each of the additional payments promptly when due to The Pennsylvania Company for Insurances on Lives and Granting Annuities, Trustee, at its principal office, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania, or at such other place as the Trustee may in writing from time to time direct.

The Trustee will apply all payments made from time to time hereunder to the purchase of Trusteed Property in the manner and at the time set forth in the Trust Agreement less amounts to be deducted therefrom as set forth in the Trust Agreement as follows: (a) From each monthly instalment paid, a sum not in excess of the rate of Twenty-five Cents (25¢) on each Ten Dollars (\$10.), or fraction thereof, of said monthly instalment, which shall be retained by the Trustee to provide for the expense of administering the Trust hereby created, including the compensation of the Trustee; (b) From each monthly instalment paid, a sum sufficient to discharge the insurance premiums as they become due; (c) From the first twelve payments made hereunder, a sum in the aggregate not in excess of the rate of Sixty Dollars (\$60.) for each Twelve Hundred Dollars (\$1200.) agreed to be paid in upon this Contract Certificate, which shall be paid by the Trustee to the Company as its full service charge for the entire period during which this Contract Certificate shall continue in force, said service charge to be deducted from all or any such first twelve payments, in such proportion as the Company shall from time to time in writing direct.

The Trustee shall deduct from payments made to it from time to time hereunder and/or from the dividends and/or distributions from time to time made upon the Trusteed Property any or all such amounts as may be necessary to discharge any assessment made on the Trusteed Property held by it, or for any taxes or other governmental charges which have been, are or may be imposed upon this Contract Certificate or upon the Trusteed Property or upon the income therefrom or upon it as Trustee hereunder, under any present or future law of the United States of America or of any state, county, municipality or other taxing authority.

Upon completion of all payments agreed to be made by the Investor to the Trustee, the Investor shall have the right to direct the Trustee in writing to hold the portion of Trusteed Property to which he is entitled for a period of ten years from the date of such completion, in Trust, for the account of the Investor. During such extended period the Trustee shall collect all payments, dividends and/or distributions from time to time made to it upon the Trusteed Property and all other obligations and rights of the Company, the Trustee and the Investor shall continue and be the same as they were prior to the exercise of such option by the Investor; provided, however, the Investor shall have the right during such extended period, at his option, to direct the Trustee in writing to pay over to such Investor all or any part of the cash distributions from time to time made to the Trustee upon the Trusteed Property, and thereupon the Trustee shall forthwith pay over such sums so directed to be paid to the Investor. The Trustee shall continue to make payments of such cash as received until such time as the Investor shall in writing notify the Trustee to discontinue such payments.

Upon the exercise by the Investor of his option to continue the Trust for a further period of ten years as provided in said Trust Agreement, the Trustee, during each year of such extended period, shall deduct from all payments, dividends and/or distributions from time to time made to said Trustee upon the Trusteed Property a sum not in excess of two-tenths of one per cent. (2/10 of 1%) per annum of the total amount paid in on this Contract Certificate, as its charge and compensation for the expense of administering the Trust during such extended period.

Upon completion of all payments agreed to be made by the Investor to the Trustee or, in the event the Investor has exercised his option to extend the Trust, upon the termination of such extended period, or upon any earlier termination of this Contract Certificate in the manner set forth in the Trust Agreement the Investor may, upon surrender of this Contract Certificate, demand and receive his share of Trusteed Property purchased for his account, or may direct the sale thereof and receive the proceeds, all in the manner and subject to the terms of the Trust Agreement.

This Contract Certificate is subject in all respects to the terms and conditions set forth on the reverse hereof and in said Trust Agreement to which reference is hereby made as fully and completely as though all the terms and conditions thereof were specifically set forth herein.

The Company reserves the right to terminate this Contract Certificate in the manner and upon the conditions set forth in the Trust Agreement.

This Contract Certificate shall not be valid or become obligatory until it shall have been authenticated by a duly authorized officer of The Pennsylvania Company for Insurances on Lives and Granting Annuities, Trustee.

IN WITNESS WHEREOF, the Company has caused this Contract Certificate to be duly executed by the facsimile signature of its President and its corporate seal duly affixed, attested by its Secretary or Assistant Secretary, this

day of \_\_\_\_\_, 19\_\_\_\_

CAPITAL SAVINGS PLAN, INC.  
By \_\_\_\_\_

Secretary.

President.

COPYRIGHT 1934, CAPITAL SAVINGS PLAN, INC.



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## INSURANCE

The Company has arranged for life insurance upon the life of the Investor under a blanket life insurance policy during the term of this Contract Certificate or for a period of sixty days after any default in the payments herein provided for. Said policy provides that, subject to the terms, conditions and privileges set forth in said policy, upon receipt of due proof of death of the Investor occurring while said policy is in force and while insured thereunder, the Insurance Company issuing such policy will pay to the Trustee the amount equal to the difference between the total amount of payments to be made by the Investor under the terms hereof and the amount which the Investor has paid hereunder, but in no event in excess of Nine Thousand Six Hundred Dollars (\$9,600.). The policy of insurance whereby the life of the Investor holding this Certificate is insured shall be held by the Trustee and shall be payable to the Trustee, and the premiums thereon shall be paid by the Trustee, all as agent for the Company, but only when and as payments are made to the Trustee by the Investor or someone on his behalf, in accordance with the terms of this Contract Certificate. The Trustee shall deduct from the payments made by the Investor an amount for premiums for the account of the Company and pay the same as agent for the Company to the Insurance Company or Companies. The benefits of the life insurance policy will not be available to the Trustee or the Company if (a) the Investor shall commit suicide while either sane or insane within two years from the date hereof, or (b) the Investor shall die while more than sixty days in default under the terms hereof. Where the Investor is in default in any payment as herein provided, for more than sixty days, he shall not be entitled to any benefits under the terms and provisions of such policy and the insurance shall be reinstated only upon his furnishing evidence of insurability satisfactory to the Insurance Company.

On the death of the Investor and receipt by the Trustee of the proceeds of the policy of life insurance upon his life, the Trustee shall within twenty days apply such proceeds, with no further deductions, to the purchase of Trusteed Property, as provided in the Trust Agreement, and the Contract Certificate of the deceased Investor shall thereupon become full paid and all rights thereunder shall pass to the duly qualified personal representative or representatives of the Investor, or to the then Trustee under any outstanding and unrevoked Declaration of Trust.

Nothing contained in this agreement shall be deemed to be a representation or promise on the part of the said Insurance Company, or as placing the said Insurance Company under any accountability or responsibility whatsoever to the Investor, but its entire responsibility shall be exclusively to the Company and is to be determined wholly in accordance with the terms and conditions of such group and/or blanket life insurance policy as may at the time be outstanding in the name of the Company.

**FULL PAID CERTIFICATES.** In the case of a Full Paid Contract Certificate, the Trustee shall forthwith apply the payment made thereon (less a sum not in excess of two and one-half per cent. (2½%) of the amount paid in upon such Contract Certificate to be paid by the Trustee to the Company as its full service charge for the entire period during which the Contract Certificate shall continue in force; provided, however, in the event any installment Contract Certificate is converted into a Full Paid Contract Certificate pursuant to the terms of the Trust Agreement, the Investor shall be entitled to a credit for but shall not be entitled to be reimbursed for, any deductions made previous thereto pursuant to the terms of the Trust Agreement) to the purchase of Trusteed Property, and shall continue to hold the same for the benefit of the Investor owning such Full Paid Contract Certificate. All distributions upon the Trusteed Property applicable to such Full Paid Contract Certificate shall be collected by the Trustee and applied to the purchase of additional Trusteed Property until maturity of such Full Paid Contract Certificate or earlier termination thereof. From and after the date at which a Contract Certificate shall be full paid the Trustee shall deduct from all payments, dividends and/or distributions from time to time made upon such Trusteed Property, a sum not in excess of two-tenths of one per cent. (2/10 of 1%) per annum of the amount paid in upon such Contract Certificate as its charge and compensation for the expense of administering the Trust during the time that said Full Paid Contract Certificate shall continue in force in lieu of but in addition to the deductions if any theretofore made for the account of the Trustee under the provisions of the Trust Agreement. Any Full Paid Contract Certificate may be terminated at any time and any Investor may at any time convert an installment Contract Certificate into a Full Paid Contract Certificate by paying to the Trustee the aggregate of all remaining unpaid installments due thereon.

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**WITHDRAWALS AND PARTIAL WITHDRAWALS.** Any Investor who shall not be in default with respect to any payments due and owing under the terms of his Contract Certificate may give written notice to the Trustee of his desire to accept delivery of the Trusteed Property, or any part thereof, which up to that time has been purchased for his benefit and in such event and upon payment to the Trustee of the sum of \$2.00 to be retained by it as its fee for complying with such notice and of the amount-required for necessary transfer stamps and other transfer charges required to be paid by the Trustee, the Trustee shall proceed to obtain transfer of said Trusteed Property into the name of the Investor, or into the name of his nominee and to make delivery of same, provided however, that the Trustee shall retain any fractional shares of Trusteed Property for the benefit of the Investor. Thereafter the Investor shall continue his payments in accordance with his Contract Certificate and the Trustee shall invest the same, less deductions, in Trusteed Property under the terms of the Trust Agreement as though the Investor had not withdrawn any part of the Trusteed Property. Before any Investor shall be entitled to receive any Trusteed Property under this provision he shall be required to surrender his Contract Certificate to the Trustee for the purpose of noting thereon delivery of the Trusteed Property to him.

**ASSIGNMENTS.** Any Capital Savings Plan Contract Certificate, if in force and not cancelled on the books of the Trustee, may be assigned to any individual acceptable to the Company, but no assignment or transfer thereof shall be valid without the consent in writing endorsed thereon by the Company after proper application has been made and \$1.00 has been paid to the Company to be retained by it as its service fee, and the Assignee has endorsed thereon his acceptance of the terms of the said Contract Certificate and the Company shall have duly notified the Trustee of its approval of said Assignment. From then and thereafter the Assignor-Investor shall be relieved and discharged of all obligations and duties under, and shall have no further rights or interests in, his Contract Certificate or in the Trust Agreement, and the Assignee-Investor shall be deemed and taken to have become substituted in the place and stead of the Assignor-Investor. Upon such assignment and consents, the insurance benefits, if any, in said Contract Certificate will terminate as to the Investor but the said insurance benefits will be extended to the Assignee subject to the approval of the Company and of the Trustee and upon proof of insurability satisfactory to the Insurance Company. In the event that such Assignee is unable to obtain the benefit of any insurance accompanying the Contract Certificate assigned to him, the deductions from the payments to be made by the Assignee-Investor under the terms of the Trust Agreement after the date of such assignment shall be the same as though said Contract Certificate was not originally accompanied by life insurance.

**AUTHORIZATION OF LIQUIDATION.** Any Investor may, upon or after the issuance to him of a Contract Certificate, execute and file with the Company a writing in form satisfactory to the Company, authorizing the Company to cause such Investor's Contract Certificate to be liquidated by the Trustee when the Trusteed Property to which the said Investor is entitled has attained a net market value of Two Thousand Dollars (\$2,000) in relation to each Twelve Hundred Dollars (\$1,200) agreed to be paid in on said Certificate by said Investor. Upon the execution and filing with it of such authorization of liquidation, the Company shall, when and as said net market value has been attained, notify the Trustee to sell the Trusteed Property to which the said Investor is entitled and to pay over to the said Investor the entire net proceeds of such sale upon the surrender to the Trustee by the Investor of the Contract Certificate so liquidated. Upon such liquidation the Company shall forthwith give written notice thereof to the Investor. Any such authorization of liquidation may be revoked by the Investor at any time before such liquidation has been effected by the giving to the Company by the Investor of written notice of the said Investor's desire to effect such revocation, and shall be revoked by any earlier termination of the Contract Certificate under any of the provisions of this Trust Agreement.

**LIQUIDATION.** Any Capital Savings Plan Contract Certificate, if in force and not cancelled on the books of the Trustee, may be liquidated at any time by giving notice to the Trustee. Such notice shall be accompanied by the Certificate. There is no liquidation fee. The Trustee will, in the event of such liquidation, remit to the Investor the proceeds of the sale of his Trusteed Property within ten days of the receipt of such notice.

**DESIGNATION OF BENEFICIARY.** The Company may adopt for execution by Investors a uniform Declaration of Trust, the form and provisions of which shall be satisfactory to the Trustee, providing, *inter alia*, that the Investor holds all his right, title and interest in the Trusteed Property mentioned in his Contract Certificate in trust for a certain named beneficiary but reserves the right to revoke the trust without such beneficiary's consent. Such uniform Declaration of Trust shall contain such other terms and conditions as shall be satisfactory to the Trustee, but the form thereof in use may be changed from time to time at the option of the Company provided the changes are satisfactory to the Trustee.



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By

THE PENNSYLVANIA COMPANY FOR INSURANCES ON  
LIVES AND GRANTING ANNUITIES, Trustee.

THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, Trustee, hereby certifies that this is a Contract Certificate of CAPITAL SAVINGS PLAN, Inc., described in the within mentioned Trust Agreement and that the above named Investor is registered on the Registry Books of CAPITAL SAVINGS PLAN, Inc. kept by the Trustee at its office, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania, as the holder of the within Certificate.

The Entire Issue of which this Certificate is a part shall be offered for sale and shall be sold only to persons resident within the State of Pennsylvania.

A

# ASSIGNMENT

FOR VALUE RECEIVED, I the undersigned, the Investor named in the within Contract Certificate, hereby assign the same to

of together with all rights acquired thereunder and subject to all terms, conditions and agreements therein contained.

Witness my hand and seal this day of 193 .

In the Presence of:

[seal]

This Assignment will not be valid until approved by the Company.

The above Assignment is approved this day of 193 CAPITAL SAVINGS PLAN, INC.

President.

I hereby accept the terms of the within Contract Certificate.

Assignee.

By Authorized Officer.

Dated 19

In consideration of the payment of the full amount due under the terms hereof, receipt whereof is hereby acknowledged, the within Contract Certificate is converted into a full paid Contract Certificate and the Investor is entitled to all rights and privileges under the within mentioned Trust Agreement without further payment. To evidence such fact, THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, Trustee, has caused this Certificate to be executed by its authorized officer and the within Contract Certificate to be stamped "FULL PAID" across the face thereof.

THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, Trustee.

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# CAPITAL SAVINGS PLAN CONTRACT CERTIFICATE

AGREEMENT made by and between CAPITAL SAVINGS PLAN, INC. (hereinafter called "Company"), and

(hereinafter called "Investor")  
 WHEREAS, the Investor desires to become a party to a certain Agreement of Trust dated as of May 1, 1934, entered into between the Company and THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, as Trustee and such persons as may from time to time become parties thereto (hereinafter called the "Trust Agreement"), wherein it is provided that the Investor shall make monthly cash payments to the Trustee over a period of ten years for investment in Independence Trust Shares Certificates or, as provided, in said Trust Agreement, in other trust shares or receipts of banks, trust companies or banking institutions, or certificates of deposit or of interest or of participation evidencing deposit of, or representing blocks of, underlying securities reasonably comparable to the securities underlying Independence Trust Shares (hereinafter called "Trusted Property"); and

WHEREAS, said Trust Agreement provides that the Investor, by purchasing an agreement in the form of this agreement, upon authentication thereof on behalf of the Trustee, shall become a party to said "Trust Agreement" and become entitled to all the rights and privileges, limitations and conditions therein set forth;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, this agreement

Witnesseth.  
 The Investor agrees to pay to The Pennsylvania Company for Insurances on Lives and Granting Annuities, the Trustee, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in

TEN ANNUAL  
 TWENTY SEMI-ANNUAL  
 FORTY QUARTERLY  
 ONE HUNDRED TWENTY MONTHLY } equal payments of \$ \_\_\_\_\_ each,

of which, to wit, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) receipt of the first \_\_\_\_\_ of which, to wit, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) by the said Trustee is hereby acknowledged. The Investor further agrees to make each of the additional payments promptly when due to The Pennsylvania Company for Insurances on Lives and Granting Annuities, Trustee, at its principal office, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania, or at such other place as the Trustee may in writing from time to time direct. The Trustee will apply all payments made from time to time hereunder to the purchase of Trusted Property in the manner and at the time set forth in the Trust Agreement less amounts to be deducted therefrom as set forth in the Trust Agreement as follows: (a) From each monthly instalment paid, a sum not in excess of the rate of Twenty-five Cents (25¢) on each Ten Dollars (\$10.), or fraction thereof, of said monthly instalment, which shall be retained by the Trustee to provide for the expense of administering the Trust hereby created, including the compensation of the Trustee; (b) From the first twelve payments made hereunder, a sum in the aggregate not in excess of the rate of Sixty Dollars (\$60.) for each Twelve Hundred Dollars (\$1200.) agreed to be paid in upon this Contract Certificate, which shall be paid by the Trustee to the Company as its full service charge for the entire period during which this Contract Certificate shall continue in force, said service charge to be deducted from all or any such first twelve payments, in such proportion as the Company shall from time to time in writing direct.

The Trustee shall deduct from payments made to it from time to time hereunder and/or from the dividends and/or distributions from time to time made upon the Trusted Property any or all such amounts as may be necessary to discharge any assessment made on the Trusted Property held by it, or for any taxes or other governmental charges which have been, are or may be imposed upon this Contract Certificate or upon the Trusted Property or upon the income therefrom or upon it as Trustee hereunder, under any present or future law of the United States of America or of any state, county, municipality or other taxing authority.

Upon completion of all payments agreed to be made by the Investor to the Trustee, the Investor shall have the right to direct the Trustee in writing to hold the portion of Trusted Property to which he is entitled for a period of ten years from the date of such completion, in Trust, for the account of the Investor. During such extended period the Trustee shall collect all payments, dividends and/or distributions from time to time made to it upon the Trusted Property and all other obligations and rights of the Company, the Trustee and the Investor, shall assume and be the same as they were prior to the exercise of such option by the Investor; provided, however, the Investor shall have the right during such extended period, at his option, to direct the Trustee in writing to pay over to such Investor all or any part of the cash distributions from time to time made to the Trustee upon the Trusted Property, and thereupon the Trustee shall forthwith pay over such sums so directed to be paid to the Investor. The Trustee shall continue to make payments of such cash as received until such time as the Investor shall in writing notify the Trustee to discontinue such payments.

Upon the exercise by the Investor of his option to continue the Trust for a further period of ten years as provided in said Trust Agreement, the Trustee, during each year of such extended period, shall deduct from all payments, dividends and/or distributions from time to time made to said Trustee upon the Trusted Property a sum not in excess of two-tenths of one per cent. (2/10 of 1%) per annum of the total amount paid in on this Contract Certificate, as its charge and compensation for the expense of administering the Trust during such extended period.

Upon completion of all payments agreed to be made by the Investor to the Trustee or, in the event the Investor has exercised his option to extend the Trust, upon the termination of such extended period, or upon any earlier termination of this Contract Certificate in the manner set forth in the Trust Agreement the Investor may, upon surrender of this Contract Certificate, demand and receive his share of Trusted Property purchased for his account, or may direct the sale thereof and receive the proceeds, all in the manner and subject to the terms of the Trust Agreement.

This Contract Certificate is subject in all respects to the terms and conditions set forth on the reverse hereof and in said Trust Agreement to which reference is hereby made as fully and completely as though all the terms and conditions thereof were specifically set forth herein.

The Company reserves the right to terminate this Contract Certificate in the manner and upon the conditions set forth in the Trust Agreement.

This Contract Certificate shall not be valid or become obligatory until it shall have been authenticated by a duly authorized officer of The Pennsylvania Company for Insurances on Lives and Granting Annuities, Trustee.

IN WITNESS WHEREOF, the Company has caused this Contract Certificate to be duly executed by the facsimile signature of its President and its corporate seal duly affixed, attested by its Secretary or Assistant Secretary, this

CAPITAL SAVINGS PLAN, INC.

By

Secretary.

President.



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**FULL PAID CERTIFICATES.** In the case of a Full Paid Contract Certificate, the Trustee shall forthwith apply the payment made thereon (less a sum not in excess of two and one-half per cent. (2½%)) of the amount paid in upon such Contract Certificate to be paid by the Trustee to the Company as its full service charge for the entire period during which the Contract Certificate shall continue in force; provided, however, in the event any installment Contract Certificate is converted into a Full Paid Contract Certificate pursuant to the terms of the Trust Agreement, the Investor shall be entitled to a credit for but shall not be entitled to be reimbursed for, any deductions made previous thereto pursuant to the terms of the Trust Agreement) to the purchase of Truſteed Property, and shall continue to hold the same for the benefit of the Investor owning such Full Paid Contract Certificate. All distributions upon the Truſteed Property applicable to such Full Paid Contract Certificate shall be collected by the Trustee and applied to the purchase of additional Truſteed Property until maturity of such Full Paid Contract Certificate or earlier termination thereof. From and after the date at which a Contract Certificate shall be full paid the Trustee shall deduct from all payments, dividends and/or distributions from time to time made upon such Truſteed Property, a sum not in excess of two-tenths of one per cent. (2/10 of 1%) per annum of the amount paid in upon such Contract Certificate as its charge and compensation for the expense of administering the Trust during the time that said Full Paid Contract Certificate shall continue in force in lieu of but in addition to the deductions if any theretofore made for the account of the Trustee under the provisions of the Trust Agreement. Any Full Paid Contract Certificate may be terminated at any time and any Investor may at any time convert an installment Contract Certificate into a Full Paid Contract Certificate by paying to the Trustee the aggregate of all remaining unpaid instalments due thereon.

**WITHDRAWALS AND PARTIAL WITHDRAWALS.** Any Investor who shall not be in default with respect to any payments due and owing under the terms of his Contract Certificate may give written notice to the Trustee of his desire to accept delivery of the Truſteed Property, or any part thereof, which up to that time has been purchased for his benefit and in such event and upon payment to the Trustee of the sum of \$2.00 to be retained by it as its fee for complying with such notice and of the amount required for necessary transfer stamps and other transfer charges required to be paid by the Trustee, the Trustee shall proceed to obtain transfer of said Truſteed Property into the name of the Investor, or into the name of his nominee and to make delivery of same, provided however, that the Trustee shall retain any fractional shares of Truſteed Property for the benefit of the Investor. Thereafter the Investor shall continue his payments in accordance with his Contract Certificate and the Trustee shall invest the same, less deductions, in Truſteed Property under the terms of the Trust Agreement as though the Investor had not withdrawn any part of the Truſteed Property. Before any Investor shall be entitled to receive any Truſteed Property under this provision he shall be required to surrender his Contract Certificate to the Trustee for the purpose of noting thereon delivery of the Truſteed Property to him.

**ASSIGNMENTS.** Any Capital Savings Plan Contract Certificate, if in force and not cancelled on the books of the Trustee, may be assigned to any individual acceptable to the Company, but no assignment or transfer thereof shall be valid without the consent in writing endorsed thereon by the Company after proper application has been made and \$1.00 has been paid to the Company to be retained by it as its service fee, and the Assignee has endorsed thereon his acceptance of the terms of the

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said Contract Certificate and the Company shall have duly notified the Trustee of its approval of said Assignment. From then and thereafter the Assignor-Investor shall be relieved and discharged of all obligations and duties under, and shall have no further rights or interests in, his Contract Certificate or in the Trust Agreement, and the Assignee-Investor shall be deemed and taken to have become substituted in the place and stead of the Assignor-Investor. Upon such assignment and consent, the insurance benefits, if any, in said Contract Certificate will terminate as to the Investor but the said insurance benefits will be extended to the Assignee subject to the approval of the Company and of the Trustee and upon proof of insurability satisfactory to the Insurance Company. In the event that such Assignee is unable to obtain the benefit of any insurance accompanying the Contract Certificate assigned to him, the deductions from the payments to be made by the Assignee-Investor under the terms of the Trust Agreement after the date of such assignment shall be the same as though said Contract Certificate was not originally accompanied by life insurance.

AUTHORIZATION OF LIQUIDATION. Any Investor may, upon or after the issuance to him of a Contract Certificate, execute and file with the Company a writing in form satisfactory to the Company, authorizing the Company to cause such Investor's Contract Certificate to be liquidated by the Trustee when the Truſteed Property to which the said Investor is entitled has attained a net market value of Two Thousand Dollars (\$2,000) in relation to each Twelve Hundred Dollars (\$1,200) agreed to be paid in on said Certificate by said Investor. Upon the execution and filing with it of such authorization of liquidation, the Company shall, when and as said net market value has been attained, notify the Trustee to sell the Truſteed Property to which the said Investor is entitled and to pay over to the said Investor the entire net proceeds of such sale upon the surrender to the Trustee by the Investor of the Contract Certificate so liquidated. Upon such liquidation the Company shall forthwith give written notice thereof to the Investor. Any such authorization of liquidation may be revoked by the Investor at any time before such liquidation has been effected by the giving to the Company by the Investor of written notice of the said Investor's desire to effect such revocation, and shall be revoked by any earlier termination of the Contract Certificate under any of the provisions of this Trust Agreement.

LIQUIDATION. Any Capital Savings Plan Contract Certificate, if in force and not cancelled on the books of the Trustee, may be liquidated at any time by giving notice to the Trustee. Such notice shall be accompanied by the Certificate. There is no liquidation fee. The Trustee will, in the event of such liquidation, remit to the Investor the proceeds of the sale of his Truſteed Property within ten days of the receipt of such notice.

DESIGNATION OF BENEFICIARY. The Company may adopt for execution by Investors a uniform Declaration of Trust, the form and provisions of which shall be satisfactory to the Trustee, providing, *inter alia*, that the Investor holds all his right, title and interest in the Truſteed Property mentioned in his Contract Certificate in trust for a certain named beneficiary but reserves the right to revoke the trust without such beneficiary's consent. Such uniform Declaration of Trust shall contain such other terms and conditions as shall be satisfactory to the Trustee, but the form thereof in use may be changed from time to time at the option of the Company provided the changes are satisfactory to the Trustee.



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By .....

THE PENNSYLVANIA COMPANY FOR INSURANCES ON  
LIVES AND GRANTING ANNUITIES, Trustee.

THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, Trustee, hereby certifies that this is a Contract Certificate of CAPITAL SAVINGS PLAN, INC., described in the within mentioned Trust Agreement and that the above named Investor is registered on the Registry Books of CAPITAL SAVINGS PLAN, INC. kept by the Trustee at its office, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania, as the holder of the within Certificate.

The Entire Issue of which  
this Certificate is a part  
shall be offered for sale  
and shall be sold only to  
persons resident within  
the State of Pennsylvania.

#### ASSIGNMENT

FOR VALUE RECEIVED, I the undersigned, the Investor named in the within Contract Certificate, hereby assign the same to .....

of ..... together with all rights acquired thereunder and subject to all terms, conditions and agreements therein contained.

Witness my hand and seal this ..... day of ..... 193 .....

[SEAL]

This Assignment will not be valid until approved by the Company.

The above Assignment is approved this ..... day of ..... 193 .....

CAPITAL SAVINGS PLAN, INC.

President.

I hereby accept the terms of the within Contract Certificate.

By .....  
Authorized Officer.

Assignee: ..... Dated ..... 19 .....

In consideration of the payment of the full amount due under the terms hereof, receipt whereof is hereby acknowledged, the within Contract Certificate is converted into a full paid Contract Certificate and the Investor is entitled to all rights and privileges under the within mentioned Trust Agreement without further payment. To evidence such fact, THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, Trustee, has caused this Certificate to be executed by its authorized officer and the within Contract Certificate to be stamped "FULL PAID" across the face thereof.

THE PENNSYLVANIA COMPANY FOR INSURANCES  
ON LIVES AND GRANTING ANNUITIES,  
Trustee.



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**THIS AGREEMENT**

and

**DECLARATION OF TRUST**

(hereinafter referred to as "this Agreement") dated as of the second day of April, 1930, made by and between INDEPENDENCE SHARES CORPORATION a corporation duly organized and existing under the laws of the State of Delaware (hereinafter referred to as "the Depositor") and THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as "the Trustee") witnesseth,

WHEREAS, the Depositor desires to deposit with the Trustee from time to time Deposit Units, consisting of shares of common stocks of certain companies or corporations (hereinafter generally termed "the Companies") and cash as herein provided for, and to provide for the issuance of one thousand (1000) Trust Shares, to be known as Independence Trust Shares, and to be represented by Trust Shares Certificates, against every such Unit, when and as deposited, and desires to set forth the terms and conditions under which such Deposit Units may be deposited with and held, administered, and applied by the Trustee for the benefit of the Depositor and other and subsequent holders of the Trust Shares Certificates, and desires to set forth and define the rights, powers, privileges, immunities and liabilities of the Depositor, the Trustee and the holders of Trust Shares Certificates;

Now, THEREFORE, for and in consideration of the premises and of the mutual covenants of the parties, it is hereby agreed as follows:

## ARTICLE ONE.

## THE DEPOSIT UNIT.

SECTION I. Simultaneously with the execution of this Agreement, the Depositor has deposited with the Trustee a Deposit Unit, which is composed of the following property and cash:

A. One Stock Unit, which shall consist of one (1) share of the common capital stock of each of the said corporations, as set forth in Exhibit "A", which is hereto annexed and hereby made a part hereof, as the said stocks were constituted on March 1, 1930.

B. One Distribution Unit, which shall consist of

1. A sum, in cash, equal to the total of the cash dividends paid on the said stocks comprising the said Stock Unit from and after March 1, 1930 to stockholders of record on that date or thereafter to and including the day preceding the date of the execution and delivery hereof.

2. A sum, in cash, equal to the total market value of all stock dividends, subscription rights, securities and other rights and property (excepting cash) distributed by said Companies from and including March 1, 1930 to stockholders of record on that date or thereafter, to and including the business day last preceding the execution and delivery hereof. The market value of said stock dividends, subscription rights, securities and other rights and property shall be determined as of the close of business of the day preceding the date of execution and delivery hereof, provided that the market value of such subscription rights and other rights, as may have expired prior to the date of execution and delivery hereof shall be determined as of the close of business of the day preceding the date of expiration of such rights.



**SECTION II.** Additional Deposit Units may be deposited with the Trustee by the Depositor from time to time until February 28, 1950 or until prior termination of this Agreement, but each such additional Deposit Unit at the time of deposit must be identical in composition with each of the Deposit Units as they are composed at the close of business of the business day next preceding the date of deposit of each such additional Deposit Unit, and all Deposit Units must be identical, each with the other, at all times.

**SECTION III.** Subject to the provisions of Section II of this Article as to the time in which additional Deposit Units may be deposited with the Trustee, the number of Units which may be deposited and against which Trust Shares Certificates may be issued shall be unlimited.

**SECTION IV.** For the purposes of this article the term "market value" shall be defined as follows: The last sale price at the close of the day on which the market value is to be determined as shown by any published quotations in common use among bankers and brokers, and if there be no record of any sale on that day, then the last sale price on the last previous business day on which a sale is so published, and, if there be no such published quotation, then, the market value as shown by a letter from any recognized and reputable dealer in such class of security or property, less, in either case, customary odd-lot brokerage and commissions and all sales and transfer taxes payable by the seller in the case of the sale of such stock, security or property.

## **ARTICLE TWO.**

### **THE TRUST SHARES.**

**SECTION I.** After the execution and delivery hereof, and upon delivery to the Trustee from time to time of one or more and subsequent Deposit Units, the Trustee shall hold, administer and apply all Deposit Units for the use

and benefit of the Depositor, and other and subsequent holders of Trust Shares Certificates hereinafter provided for, in the manner, under the terms and provisions and for the time hereinafter set forth.

**SECTION II.** Upon the delivery to the Trustee of each Deposit Unit, the Trustee shall issue and deliver to the Depositor or upon its order, a certificate or certificates representing One Thousand (1000) Trust Shares, each Trust Share representing a one-thousandth ( $1/1000$ ) interest in the said Unit. Such certificates shall be known and are hereinafter referred to as "Trust Shares Certificates," and shall be substantially in the form set forth in Exhibit "B", which is hereto attached and hereby made a part hereof.

**SECTION III.** Each Trust Share issued hereunder, irrespective of the date of issue, shall rank equally with every other Trust Share.

**SECTION IV.** No Trust Shares Certificate shall be valid for any purpose unless and until authenticated by the Trustee in accordance with the certificate of authentication endorsed thereon, as set forth in Exhibit "B".

**SECTION V.** The Depositor may, at any time during the term of this Agreement, sell and assign to any person, firm, association or corporation whatever the said Trust Shares Certificates, and the Trustee, at the request of any holder thereof, shall register in appropriate books of record the Trust Shares represented by Trust Shares Certificates so offered for registration, in the name of the said holder or his nominee, and issue to the said holder, or his nominee, a registered certificate, in the form above specified. Thereafter such Trust Shares Certificates, whenever offered for transfer properly endorsed, shall be transferable on the books of the Trustee and a new certificate or certificates shall be registered in the name of the transferee or his nominee or nominees.

**ARTICLE THREE.****ADMINISTRATION OF THE UNITS COMPRISING THE TRUST.**

**SECTION I.** Certificates of the stock of the Companies and other securities deposited with the Trustee by the Depositor shall be duly endorsed in blank or accompanied by proper instruments for transfer to the Trustee, its nominee or nominees, or shall be registered in the name of the Trustee, its nominee or nominees, and if not so registered shall be forthwith transferred by the Trustee into its own name or the name of its nominee or nominees; and, subject to the provisions hereof, shall remain so registered until the same shall be transferred to the holders of Trust Shares or sold or delivered or withdrawn as provided in this Agreement. The Trustee may from time to time change its nominee or nominees. The Trustee may accept interim receipts or due bills of responsible banks, trust companies or dealers in securities pending delivery of certificates of stock of the Companies.

**SECTION II.** The Trustee shall hold the deposited stocks and property and shall receive all income, profits, earnings, dividends, rights, interest and other distributions of property from, and the proceeds of all shares of stock and of other property received or held by it hereunder, and shall apply, distribute and deal with the same under the terms and provisions hereof.

**SECTION III.** The Trustee shall hold all moneys deposited with it or received by it hereunder, as a general deposit until required to disburse the same in accordance with the provisions of this Agreement, and the requirements of any rule of law or statute now or hereafter in force regarding the investment or segregation of trust funds shall not apply to such moneys.

**SECTION IV.** The Trustee, in the manner hereinafter provided for, shall sell all shares of stock, subscription rights, securities and other rights and property received by



way of dividends or distributions in respect to the stocks comprising the Stock Units.

SECTION V. A. Should any one or more of the Companies fail to pay a usual dividend upon its stock, the Trustee shall give notice in writing to that effect to the Depositor, and the Depositor, in its discretion may thereafter direct the Trustee in writing to sell all of the shares of the stock of such Company held as part of any Stock Unit in the manner hereinafter provided, and upon receipt of any such notice in writing, the Trustee shall sell such stock in the manner hereinafter provided, and thereafter the stock of such Company shall no longer be deemed or considered to be a part of any Stock Unit hereunder.

B. If, at any time, any of the Companies shall liquidate voluntarily or otherwise, or if, at any time, the Depositor should receive information that in its opinion would warrant the conclusion that the stock of any such Company may or will become substantially impaired in value, then the Depositor shall have the right, but not the obligation, in accordance with its sole discretion, to instruct the Trustee to sell such stock, and upon receipt of any such notice in writing the Trustee shall sell such stock, in the manner hereinafter provided, and thereafter the stock of such Company shall no longer be deemed or considered to be a part of any Stock Unit hereunder.

SECTION VI. In the event that the stock of any of the Companies included in the Deposit Units shall be split-up or changed to a greater number of shares of stock, the Trustee shall forthwith proceed to exchange the certificates then held by it and pending the exchange, or thereafter shall sell in the manner hereinafter provided, all the shares of stock or fractions thereof which it is entitled to receive, provided always, however, that the Trustee, following such a split-up or change shall retain one share of such new or exchanged common stock for each Stock Unit then held by it, and the share of stock so retained shall be held in the

same manner, in accordance with this Agreement as if such share of stock had been originally specified and named in the Stock Unit.

SECTION VII. In case any one or more of the Companies merges or consolidates with any other corporation or corporations or sells or conveys all or substantially all of its property as an entirety to another corporation or enters into or becomes a party to any plan or scheme or re-organization whereby its capitalization is increased or reduced or altered or modified, or whereby a new corporation is formed which acquires all or substantially all of the property and assets formerly owned by any such Company, or in case of the happening of any event whereby the stock of any of the Companies deposited hereunder shall or may be exchanged for or converted into new stocks or securities of any such Companies, or of any other corporation, then and in every such case the Trustee shall exchange or convert the stock deposited hereunder for or into the stock and/or securities for which the same is exchangeable or into which it is convertible. In any of such events, the Trustee shall retain one share of such new common capital stock for and as part of each Stock Unit then held by it, and shall sell all other shares of stock, securities, subscription rights, and other rights or property received by the Trustee arising out of such merger, consolidation, reorganization or purchase in the manner hereinafter provided. In the event that the Trustee receives, as to each Deposit Unit then held by it, less than one share of common capital stock as a result of such exchange or conversion of any stock of the Companies, then the Trustee shall, upon the written instructions of the Depositor, and in the absolute discretion of the Depositor, either (1) retain the said fraction of such share of stock so received by it and hold and administer the same under the terms hereof as part of such Stock Unit or (2) shall purchase with funds then in the Distribution Account, which is hereinafter provided for, a fraction of a share of such stock, which together with the fraction of a share so

received, shall constitute one full share of such stock, and hold and administer the said full share of such stock under the terms hereof as a part of such Stock Unit, or (3) shall sell, in the manner in this Article provided, the fraction of such share of stock so received by it, and pay the net cash proceeds of the sale thereof into the Distribution Account, and thereafter the stock of such Company shall no longer be deemed or considered to be a part of such Stock Unit.

SECTION VIII. In case any event shall occur not specified in the provisions of this Agreement, requiring the exercise of discretion in the administration of the Deposit Units, the Trustee shall take such action with respect thereto as the Depositor, in its absolute discretion, shall direct in writing, or, if the Depositor shall fail to give such direction within five (5) days after the Trustee shall have given written notice of such event to the Depositor, then as the Trustee in its absolute discretion shall determine.

SECTION IX. Whenever the Trustee under any provision of this Agreement is required to sell any stock, securities, subscription rights, or other rights or property, such property shall be sold not later than thirty days after the receipt thereof by the Trustee. All such property required to be sold under the terms of this Agreement shall and may be sold in such manner and at such place, by private or public sale or at auction as the Depositor in its absolute discretion, by notice in writing to the Trustee, may direct. The time of any such sale and the price at which any such property shall be offered for sale by the Trustee, whether on a stock exchange or otherwise, shall be determined by the Depositor in its absolute discretion, with the purpose of obtaining the highest price, in the opinion of the Depositor reasonably obtainable therefor, considering the period within which such sale must take place, the amount of such property to be offered for sale and the condition of the market or markets. If, within five (5) days prior to the expiration of the period in which such sale is required to



be made, the Trustee, for any reason, shall have been unable to make any sale in accordance with the direction and instructions of the Depositor, or if the Depositor shall have failed to give any direction in respect thereof, the Trustee shall make sale at any time, place and price determined by the Trustee in its absolute discretion.

SECTION X. The Trustee shall maintain an account, to be referred to as a Distribution Account, in which all cash dividends and the proceeds of all sales of shares of stock, securities, rights or other property, less all taxes, commissions and other charges incident to such sales shall be deposited. For purposes of this Agreement, all cash dividends paid by any of the Companies (excepting dividends distributed in liquidation or dissolution of any of the said Companies) shall be considered as income, and the proceeds of the sales of any property required to be sold hereunder and any dividends received by the Trustee as a distribution in liquidation or dissolution of any of the said Companies shall be considered as principal.

SECTION XI. On the occasion of each distribution, provided for hereunder, the Trustee shall prepare an appropriate statement as to such distribution in order to assist the registered holders of Trust Shares Certificates in computing the amount of any income tax payable by them on account of their interest in the property held or distributed by the Trustee under this Agreement, and upon application by said holders of Trust Shares Certificates, at any reasonable time, the Trustee shall furnish a copy of such statement. The Trustee shall not in any event be responsible for the accuracy of such statement nor be liable in any event for any loss or damage caused by anything contained in or omitted from a statement so prepared or furnished.

SECTION XII. Whenever the Trustee shall issue Distribution checks, it shall withdraw from the Distribution Account and deposit in a separate and appropriately designated general deposit account a sum equal to the amount neces-

sary to pay the checks so issued, and all distribution checks shall be paid out of such account. In no event shall any moneys against which there are checks outstanding and unpaid be deemed or considered as part of the currently distributable funds. In case any distribution check shall not have been presented for payment within six years after the date of issue thereof, the Trustee, upon the written order of the Depositor shall pay over to the Depositor the moneys payable with respect to such check; and thereafter the holder shall look only to the Depositor for payment thereof. Neither the Trustee nor the Depositor shall be required to pay to such payee interest on any moneys so held by the Trustee or paid over by it to the Depositor.

**SECTION XIII.** The Depositor is hereby authorized and empowered from time to time with the written approval of the Trustee to enter into any agreement or agreements with any of the Companies, intended to facilitate the collection of income or the enforcement of any other rights, powers or duties of the Trustee, in respect of the deposited stock.

**SECTION XIV.** The Trustee, so long as any stock is held by it hereunder, shall, upon the written demand of the Depositor, execute or cause to be executed and delivered to the Depositor, its nominee or nominees, but at the Depositor's sole cost and expense, proxies or powers of attorney to vote, or consent or otherwise act in respect of all such stock. In exercising the right to vote such stock the Depositor shall act solely for the benefit of the registered holders of the Trust Shares Certificates, and shall be guided by what it believes to be for the best interests of the said holders and the Depositor will exercise its best judgment from time to time in respect of such votes, consents or acts, but neither the Depositor nor the Trustee assumes any responsibility in respect of the management of the Companies nor in respect of any vote, consent or action taken by the Depositor, its nominee or nominees, nor shall the Trustee nor the Depositor be liable by reason of any error

of law or any matter or thing done or omitted or approved, voted or given or withheld by the Depositor under this Agreement, except each for its own wilful malfeasance or gross negligence. The Trustee shall not be liable to anyone with respect to any action taken or caused to be taken or omitted pursuant to any such proxy or power of attorney.

SECTION XV. Whenever, pursuant to the provisions of Section III of Article Six hereof, the Trustee shall receive or shall have accumulated one thousand (1000) Trust Shares, surrendered for cash redemption, the Trustee may, subject to the rights of the Depositor hereunder, cancel the certificates so surrendered, withdraw one Deposit Unit from the deposited property then held by it, liquidate the same as expeditiously as possible, and retain the proceeds of such liquidation.

#### ARTICLE FOUR.

##### REGISTRATION OF CERTIFICATES.

SECTION I. All certificates issued hereunder shall be registered and the Trustee shall provide a register for the registration of the Trust Shares Certificates and the addresses of the holders thereof, which register shall be kept at the principal office of the Trustee in the City of Philadelphia, Pennsylvania. The person in whose name the same shall be registered shall for all purposes be deemed and regarded as the owner thereof and payments on account of the principal and/or income of such shares shall be made only to or upon the order of such registered holder. All such payments so made shall fully and clearly discharge the liability of the Trustee and the Depositor upon any such certificate so registered to the extent of the sum or sums so paid. Transfers of such certificates shall be made only on presentation and surrender of such certificates at the office of the Trustee and in accordance with such reasonable rates or charges, and under such reasonable regulations, as the Trustee may prescribe.



**ARTICLE FIVE.****DISTRIBUTIONS AND TERMINATION OF TRUST.**

**SECTION I.** On April first and October first in each year, the Trustee will pay to the registered holders of Trust Shares Certificates (of record on the books of the Trustee on the preceding March first or September first, as the case may be), if and to the extent received by the Trustee, distributions as follows, and subject to the following terms and conditions:

Each such semi-annual distribution shall consist of the appropriate proportional part of all distributable funds, as hereinafter defined, in the hands of the Trustee at the close of the business day on the next preceding twenty-eighth (28th) day of February or the thirty-first (31st) day of August, as the case may be.

**SECTION II.** The term "Distributable Funds", wherever used in this Agreement, shall mean any cash distributions made by any of the Companies out of surplus earnings or profits or in liquidation or dissolution received by the Trustee during the six months period in respect of which the current semi-annual distribution is made, and also, as to such period, the net cash proceeds of the sales of any stock, securities, rights or other property, required to be sold hereunder, received by the Trustee; but the term Distributable Funds shall not include funds against which distribution checks issued at a prior distribution date are outstanding and unpaid, nor funds set up by the Trustee for payment of taxes or other proper charges under the terms hereof, nor funds required for the reimbursement of the Trustee as provided in Article Seven, Section VI, hereunder, nor interest on any deposits,\* nor funds applied by the Trustee for the purchase of fractions of shares if any be purchased, as authorized by Article Three, Section VII. For the purpose of determining what funds are distrib-

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\* See Supplemental Agreement pp. S1, S2.

utable hereunder, cash distributions of any of the Companies shall be considered as received by the Trustee on the date of the receipt of the same by it, and the proceeds of the sale or sales of any property sold hereunder shall be considered as received by the Trustee on the date that such proceeds are paid to the Trustee, and not on the date when the property on which such proceeds were realized, was received by the Trustee.

SECTION III. Whenever, in the case of any semi-annual distribution, it shall appear that any fraction of one cent per share is distributable, the Trustee shall not then distribute such fractions of a cent, but the same shall remain on deposit in the Distribution Account and be applied to the next following semi-annual distribution.

SECTION IV. The Trust under this Agreement shall automatically terminate, as hereinafter provided, on October 1, 1950, unless sooner terminated as herein provided. The Trustee shall discontinue the acceptance of deposits of additional stock of the companies after February 28, 1950, and shall proceed, on March 1, 1950, and thereafter up to and including September 30, 1950, with the liquidation and sale of all securities then on deposit with it under the terms and conditions hereof. The transfer books for the registration and transfer of Trust Shares Certificates shall be finally closed at the close of business on August 31, 1950, and thereafter the Trustee shall not be required to transfer any such certificates. On October 1, 1950, the Trustee shall distribute pro rata all cash proceeds of such sales of securities, together with all cash funds held by it in the Distribution Account, after deduction of any reasonable brokerage fees or commissions which may be paid by the Trustee, and expenses of the Trustee, in connection with such sales, and after setting up and reserving amounts sufficient in the judgment of the Trustee to cover all taxes, expenses and other charges incident to the termination of the Trust, to the registered holders of outstanding Trust Shares Certifi-

cates, upon surrender of certificates to the Trustee and upon payment to it of the amount required to pay any Government and stamp duties and any other taxes of any kind and of any and all transfer fees or charges of any kind, if required; and after the final distribution by the Trustee no further rights shall accrue or belong to holders of Trust Shares Certificates who fail to present their certificates to the Trustee, except the right to receive a pro rata share of the distribution without interest, subject to the provisions of Section V of this Article.

SECTION V. In case any certificate or certificates shall not be presented pursuant to Section IV of this Article within six years after October 1, 1950, the Trustee, upon the written order of the Depositor, shall pay over to the Depositor the moneys, if any, payable with respect to such certificate or certificates; provided, however, that the Trustee, before being required to make such payment, may cause notice to be published, at the expense of the Depositor, once a week for four successive calendar weeks (in each case on any day of the week) in a daily newspaper published and of general circulation in the Borough of Manhattan, City and State of New York, and in such a newspaper published in the City of Philadelphia, Pennsylvania, stating that such moneys have not been claimed and that after a date specified therein such moneys will be paid over to the Depositor; and thereafter the holder or holders of such certificate or certificates shall look only to the Depositor for payment thereof. Neither the Trustee nor the Depositor shall be required to pay the holder of any certificate interest on any moneys so held by the Trustee or paid over by it to the Depositor.

## ARTICLE SIX.

### RIGHTS OF THE HOLDERS OF TRUST SHARES CERTIFICATES.

SECTION I. The holders of Trust Shares Certificates shall be entitled to receive semi-annual distributions on April first and October first each year until and including



April first, 1950, and a final distribution on October first, 1950, to the extent and in the manner provided in Article Five hereof.

**SECTION II.** At any time prior to March 1, 1950, or the earlier termination of this Trust, if it be sooner terminated, any registered holder of Trust Shares Certificates representing One Thousand (1000) Trust Shares, upon surrender thereof for conversion, and upon payment in cash to the Trustee of the amount required to pay any Government or stamp duties or other taxes of any kind, all transfer charges and fees of any kind if required, shall be entitled to receive, duly endorsed, and in proper form for transfer, all the shares of the stocks deposited with the Trustee then constituting one Stock Unit, and a cash sum equivalent to the cash value of one Distribution Unit, as of the close of business on the date of surrender of said certificates upon giving to the Trustee ten days notice in writing, accompanied by deposit of said Trust Shares Certificates, of the intention of the holder to surrender said certificates and upon such surrender such certificates shall forthwith be cancelled by the Trustee.

**SECTION III.** At any time prior to the final distribution or the earlier termination of this Trust if it be sooner terminated, the registered holder of any Trust Shares Certificates, upon surrender thereof for redemption (and a payment in cash to the Trustee of the amount required to pay any government or state stamp duties or other taxes of any kind) shall be entitled to receive cash in an amount equivalent to the redemption value per share so offered for redemption as of the close of business on the date of such surrender, upon giving the Trustee three (3) days notice in writing, accompanied by deposit of said Trust Shares Certificates, of the intention of the holders to surrender such certificates. The Trustee shall, immediately upon the surrender of such certificates for redemption, notify the Depositor of such event and the Depositor shall have an option

to purchase such shares at any time within the first two days of such three day period by paying to such holder the cash redemption value which would otherwise have been paid by the Trustee.

SECTION IV. The cash redemption value for each Trust Share, presented to the Trustee as provided in Section III of this Article shall be  $1/1000$  of the net market value of the shares of stock then comprising the Stock Unit, plus  $1/1000$  of the cash value of one Distribution Unit, as of the close of business on the date of surrender of such certificates.

SECTION V. The term "net market value" wherever it is used in this Article shall be determined by the Trustee by taking the bid price of the stocks, securities, rights or other property, at the close of business of the day of surrender of the Trust Shares Certificates to the Trustee, as shown by any published quotations in common use among bankers and brokers, or, if there be no such published quotations, then as shown in a letter from any recognized and reputable dealer in the stocks of any of the Companies, less, in either case, customary odd-lot brokerage and commissions and all sales and transfer taxes payable by seller in case of the sale of such stock, security or property.

SECTION VI. For the purposes of this Article the cash value of the Distribution Unit shall be defined as cash applicable to one Distribution Unit plus the net market value of stocks, securities, rights and other property applicable to one Distribution Unit required to be sold hereunder, received by the Trustee but not yet reduced to cash, less the proportionate part, applicable to one Deposit Unit, of any reserve which the Trustee may have been obliged to set up for the payment of any taxes under any law of the United States of America or of any taxing authority therein having jurisdiction, any sum set aside by the Trustee for the payment of assessments made on shares of stock or other property held by it hereunder, and any reserve set up by the

Trustee for the payment of expenses or counsel fees with respect to any action or suit relating to such taxes or charges, if there be any such reserves.

SECTION VII. The Trust Shares herein referred to shall carry no right to vote or consent or otherwise act in respect of the stocks or other property held by the Trustee under this Agreement. The rights of the holder of each of the Trust Shares Certificates shall be solely as set forth in this Agreement, and the acceptance of a Trust Shares Certificate shall constitute assent to each and every provision of this Agreement by the holder of such Certificate with the same force and effect as if such holder had in person executed and delivered this Agreement and was individually named as a party hereto.

## ARTICLE SEVEN.

### THE DEPOSITOR AND THE TRUSTEE.

SECTION I. The Trustee accepts the Trusts created by and pursuant to this Agreement and declares that it will faithfully perform them upon the terms and conditions, and in accordance with the provisions hereof.

SECTION II. Any company or corporation into which the Trustee or any successor to it may be merged or with which it or any successor to it may be consolidated, or any company or corporation resulting from any consolidation to which the Trustee, or any successor to it shall be a party, provided such company or corporation shall be a bank or trust company with trust powers incorporated under the laws of the United States of America or the Commonwealth of Pennsylvania shall be the successor Trustee under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto.

SECTION III. The Depositor shall be entitled to charge not in excess of one and one-half ( $1\frac{1}{2}$ ) cents semi-annually for each Trust Share outstanding on February 28th and



August 31st of each year as an administration fee hereunder; out of which sum the Depositor shall pay the Trustee its fees for its services hereunder; but the Depositor shall have the right to charge less than such amount if it so elects. Said administration fee as fixed by the Depositor from time to time, under the terms of this section, shall be deducted from the funds in the Distribution Account and shall be paid by the Trustee to the Depositor on April first and October first of each year.

SECTION IV. The Trustee shall not be entitled to receive any compensation for its services out of the deposited property, but may receive such compensation for its services from the Depositor as agreed upon with the Depositor.

SECTION V. The Trustee shall not be entitled to receive any reimbursement for expenses incurred by it hereunder out of the deposited property except as in this agreement expressly provided.

SECTION VI. In no event shall the Trustee be personally liable for any assessments made on shares of stock or other property held by it, the title to which it shall have taken either in its own name or in the name of its nominee or nominees, or for taxes or other governmental charges imposed upon the property held by it hereunder or upon the income therefrom or upon it as Trustee hereunder which it may be required to pay under any present or future law of the United States or any taxing authority therein having jurisdiction. For all such assessments and taxes, if any are imposed upon the Trustee, or for any expenses and counsel fees it may sustain or incur with respect to such assessments, taxes or charges, the Trustee shall be reimbursed and indemnified first out of the Distribution Account, and next out of the net cash proceeds of sales of the property by it hereunder before final distribution.

SECTION VII. The Trustee shall keep proper books of record, an account of all transactions hereunder, and a

duplicate original of this Agreement at its principal office in the City of Philadelphia, Pennsylvania, and the same shall be open to the inspection of the Depositor or any registered holder of a Trust Shares Certificate at any reasonable time during the usual business hours of the Trustee.

SECTION VIII.\* The Depositor shall be entitled to receive from the Trustee all interest allowed on deposits in all of the various accounts hereunder, to provide it with funds to cover the ordinary routine expenses of the Depositor hereunder. Such interest shall be at rates currently allowed by the Trustee on deposits of similar amounts and character.

SECTION IX. The Depositor and the Trustee may each become owners of Trust Shares Certificates with the same rights and privileges as other holders thereof.

SECTION X. Neither the Trustee nor the Depositor shall be liable for any payments made by either of them, or suffered by either of them to be made by any of the Companies, in good faith to any duly empowered fiscal authority, for taxes upon the stock of the Companies deposited hereunder, or upon said Trust Shares Certificates, and/or dividends (whether in cash or stock or otherwise) payable thereon.

SECTION XI. The Trustee and the Depositor may rely upon the advice of solicitors or counsel, who may be solicitors or counsel for the Trustee or for the Depositor or for any of the Companies, and upon statements of accountants, brokers and other persons believed by it or them in good faith to be expert in relation to the matter upon which they are consulted; and for anything done or suffered in good faith based on such advice and/or information, neither the Trustee nor the Depositor shall be liable to anyone.

SECTION XII. For anything done or suffered by the Depositor in good faith in accordance with the request or

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\* See Supplemental Agreement pp. S1, S2.

advice of, or based upon information furnished by the Trustee or any of the Companies, the Depositor shall not incur liability to anyone. For anything done or suffered by the Trustee in good faith in accordance with the request or advice of, or based upon information furnished by the Depositor or any of the Companies, the Trustee shall not incur liability to anyone. By no implication or construction whatsoever shall any liability to anyone be placed upon the Depositor or Trustee under this Agreement, except for wilful malfeasance or gross negligence.

**SECTION XIII.** The Trustee is authorized to act and shall be protected in acting upon any notice, request, consent, sworn statement, certificate, order, affidavit, letter, telegram, or other paper or document believed by it to be genuine and correct and to have been signed and sent by the proper person or persons.

**SECTION XIV.** As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceedings, unless other evidence is specifically required, the Trustee shall be entitled to rely upon a certificate of the Depositor signed by its President, or a Vice-President or Treasurer, or an Assistant Treasurer, as sufficient evidence of the facts therein stated. The Trustee may accept a certificate of the Secretary of the Depositor under its seal to the effect that a resolution in the form therein set forth has been adopted by the Directors or by the stockholders thereof as conclusive evidence that said resolution has been duly adopted, and is in full force and effect. The Trustee may rely upon the opinion and advice of any attorney, appraiser, accountant, or other expert whether retained or selected by the Trustee, or by the Depositor or otherwise, and shall not be responsible for any loss resulting from any action or nonaction in accordance with any such opinion or advice.

**SECTION XV.** The Trustee shall not be liable for any action taken in good faith and believed to be within the dis-



cretion or power conferred upon it by this Agreement, or be responsible for the consequence of any oversight or error of judgment and the Trustee shall not be answerable for the acts, neglects or defaults of any attorney, counsel or any other person employed by it and selected with reasonable care.

SECTION XVI. The Trustee shall not be deemed to have notice or knowledge of any fact unless written notice thereof be presented to it and wherever in this Agreement reference is made to notice to or the knowledge of the Trustee, the same shall be deemed to mean written notice to the Trustee.

SECTION XVII. No purchaser, corporation or officer or transfer agent thereof, dealing with the Trustee, shall be bound to make any inquiry, concerning the validity of any sale purporting to be made by the Trustee or be liable for the application of money received by the Trustee.

SECTION XVIII. In the event that the Trustee shall be relieved and discharged as Trustee hereunder by any competent Court, the Depositor may appoint a substitute Trustee, and shall cause notice of such appointment to be published at least once a week for four successive calendar weeks in a daily newspaper published and of general circulation in the City of Philadelphia, Pennsylvania, and shall otherwise give notice to the holders of registered Trust Shares Certificates in the manner herein provided.

SECTION XIX. Every substitute Trustee appointed by the Depositor pursuant to Section XVIII of this Article shall be a bank or trust company with trust powers incorporated under the laws of the United States of America or of the Commonwealth of Pennsylvania. Upon the appointment of a substitute Trustee, all rights, powers and duties of the Trust hereunder with respect to all the deposited property shall immediately vest in the substitute Trustee; the relieved or discharged Trustee, thereupon at the written request of the new Trustee, and upon payment to it of all

its proper charges and expenses, shall deliver all of the deposited property to the said substituted Trustee accompanied by all necessary and convenient instruments of assignment and transfer, together with such other instruments in writing as may be appropriate to vest or confer in the new Trustee all powers and duties of the Trustee hereunder, with respect to all securities, monies and properties of every kind held by the retiring Trustee, and together with all of the necessary records, books and ledgers, to enable the substituted Trustee to conveniently carry on the business of the administration of the Trust hereunder.

SECTION XX. The term "Trustee" shall mean the Trustee herein named and its successors for the time being in the Trust hereby created, and also any substitute Trustee as provided herein. The term "Depositor" shall mean "Independence Shares Corporation," its successors and assigns.

SECTION XXI. This Agreement may be amended by the Depositor to change the name "Independence Trust Shares" without the consent of the holders of Trust Shares Certificates.

## ARTICLE EIGHT.

### GENERAL PROVISIONS.

SECTION I. Pending the preparation of definitive certificates, the Trustee may execute and deliver to the Depositor or upon its order in lieu of definitive certificates but subject to the same provisions, limitations, and conditions, as definitive certificates, one or more temporary printed or typewritten certificates, substantially of the tenor of the certificate hereinabove recited, and with such omissions, insertions and variations from the form of such certificate so recited, as may be appropriate or any other temporary evidence of title to or ownership in the Trust Shares herein provided for. Each such temporary certificate shall bear on its face an appropriate legend showing that it is a tem-

porary certificate exchangeable for a definitive certificate or certificates, when prepared.

Upon surrender of any temporary certificate or certificates, at the office of the Trustee, for exchange, the Trustee will execute and deliver in exchange therefor, without expense to the holder thereof, definitive certificates, representing in the aggregate the same number of Trust Shares as the temporary certificate or certificates so surrendered. Until so exchanged, temporary certificates shall be entitled in all respects to the same benefits of this Agreement as the definitive certificates issued hereunder. Temporary certificates shall be registered in the same manner as herein provided for definitive certificates. All temporary certificates surrendered in exchange for definitive certificates shall be forthwith cancelled by the Trustee.

SECTION II. If any Trust Shares Certificate shall be mutilated, lost or destroyed, the same may be renewed on such evidence being produced as the Trustee and the Depositor shall require; and, in case of mutilation, on the surrender of the old certificate and, in case of loss or destruction, on the execution and delivery to the Trustee and the Depositor of such indemnity, if any, as the Trustee and the Depositor may require; and, in either case, on payment of such sum not exceeding Two Dollars (\$2.) per certificate as the Trustee and the Depositor may require. In case of loss the person availing himself of the provisions of this paragraph shall also pay to the Trustee and the Depositor all expenses incident to the investigation of the evidence of loss.

SECTION III. Any notice required to be given hereunder by the Trustee to the Depositor, or by the Depositor to the Trustee shall be in writing and may be given by registered mail addressed, to the Depositor or to the Trustee as the case may be, at the Depositor's address in Philadelphia, Penna., or at any address subsequently filed with the Trustee by the Depositor, or, in the case of the Trustee, at



the principal office of the Trustee in Philadelphia, Pennsylvania. Any notice required to be given hereunder by the Trustee or by the Depositor to the holders of Trust Shares Certificates shall be sufficient if given in writing and mailed to the last known address of such holders.

SECTION IV. The term "stock" as used in this Agreement shall be deemed to include allotment certificates, interim receipts and voting trust certificates representing any of such stock and/or certificates of a trustee, committee or other depository with which such stock, alone or with that of an affiliated corporation, has been deposited.

SECTION V. In the event of any changes in the composition of the Stock Unit, an appropriate notice thereof shall be given by the Trustee to the registered holders of Trust Shares Certificates at the time of the next following semi-annual distribution, and such change shall be appropriately noted on all Trust Shares Certificates issued by the Trustee following any such change.

## ARTICLE NINE.

### EXECUTION.

SECTION I. This Agreement may be executed in two or more counterparts, each of which when so executed shall be deemed to be an original, but such counterparts shall together constitute but one and the same instrument. The date of this Agreement is intended as the date of the identification hereof and is not intended to indicate that it was executed and delivered on said date, nor that the Trust Shares were authorized on or before said date, this Agreement being executed and delivered as of the date of the acknowledgment hereof, and this Agreement shall be fully effective for all purposes hereof from the date of such acknowledgment by the Trustee.

IN WITNESS WHEREOF, the Depositor and the Trustee have caused this Agreement to be signed by their respective

Presidents or Vice-Presidents and their respective corporate seals to be hereunto duly affixed, and attested by their respective Secretaries or Assistant Secretaries, as of the day and year first above written.

INDEPENDENCE SHARES CORPORATION,

By

ROBERT F. HOLDEN,  
*President.*

(SEAL)

Attest:

R. N. LANDRETH,  
*Secretary.*

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By

JOHN H. MASON,  
*Vice-President.*

(SEAL)

Attest:

L. J. CLARK,  
*Secretary.*

## EXHIBIT "A."

## THE PORTFOLIO.

Aetna Life Insurance Company (Hartford)  
Allied Chemical & Dye Corporation  
Allis Chalmers Manufacturing Company  
American Can Company  
American Gas and Electric Company  
American Power & Light Company  
American Telephone and Telegraph Company  
The American Tobacco Company (Class "B" Stock)  
The Atchison, Topeka and Santa Fe Railway Company  
The Atlantic Refining Company  
Bankers Trust Company (New York)  
The Borden Company  
The Chase National Bank of the City of New York  
The Chesapeake and Ohio Railway Company  
Consolidated Gas Company of New York  
Continental-Illinois Bank and Trust Company (Chicago)  
Corn Products Refining Company  
Eastman Kodak Company  
E. I. duPont de Nemours & Company  
Electric Bond and Share Company  
Fidelity-Phenix Fire Insurance Company of New York  
The First National Bank of Boston  
General Electric Company  
General Motors Corporation  
The Home Insurance Company  
Insurance Company of North America (Phila.)  
International Harvester Company  
The Manhattan Company  
National Biscuit Company  
The National City Bank of New York  
The New York Central Railroad Company  
The New York Trust Company  
Pacific Lighting Corporation  
The Pennsylvania Railroad Company



The Philadelphia National Bank  
Public Service Corporation of New Jersey  
Security-First National Bank of Los Angeles  
Southern Pacific Company  
Standard Oil Company of California  
Standard Oil Company of Indiana  
Standard Oil Company of New Jersey  
The Texas Corporation  
Union Carbide and Carbon Corporation  
Union Pacific Railroad Company  
The Union Trust Company (Cleveland)  
The United Gas Improvement Company  
United States Fidelity and Guaranty Company (Baltimore)  
United States Steel Corporation  
Westinghouse Electric & Manufacturing Company  
F. W. Woolworth Company

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**EXHIBIT "B."**

(Face of Certificate.)

INDEPENDENCE SHARES CORPORATION, DEPOSITOR

Incorporated under the Laws of the State of Delaware.

Certificate No.

Trust Shares

Registered Certificate

for

Independence Trust Shares.

The Pennsylvania Company for Insurances on Lives and  
Granting Annuities, Trustee.

THIS CERTIFIES THAT

is the

owner of

INDEPENDENCE TRUST SHARES,

each fully paid and each representing a one-thousandth  
(1/1000) interest in one Deposit Unit consisting, on the  
date hereof, of shares of common stock of the Companies  
and other property and cash as specified on the reverse

hereof, held by The Pennsylvania Company for Insurances on Lives and Granting Annuities (hereinafter termed the "Trustee"), under the terms of an agreement and declaration of Trust (hereinafter termed the "Agreement") dated as of April 2, 1930, between Independence-Shares Corporation (hereinafter termed the "Depositor") and the said Trustee, which agreement is hereby made a part hereof with the same force and effect as if herein set out in full, to all the terms, conditions, and provisions whereof the holder of this certificate by his acceptance hereof expressly assents and agrees. A duplicate original copy of said Agreement is open to the inspection of the registered holder hereof at the principal office of the Trustee in the City of Philadelphia during usual business hours.

On April 1 and October 1 of each year to and including April 1, 1950, unless the Trust under said Agreement is sooner terminated, the Trustee will pay to the registered holder hereof (of record on the next preceding March 1st or September 1st as the case may be) the appropriate proportional part of all Distributable Funds, as defined in said Agreement, in the hands of the Trustee at the close of the business day on the next preceding February 28th or August 31st as the case may be. The transfer books for the registration and transfer of Trust Shares shall finally close at the close of business on August 31st, 1950. On March 1st, 1950, the Trustee will proceed to sell all property held by it under said Agreement and on October 1, 1950 upon surrender hereof will pay to the registered holder hereof the appropriate proportional part of the then Distributable Funds applicable to the Trust Shares evidenced by this Certificate. At any time prior to the termination of the Trust under said Agreement, the registered holder hereof, upon giving three days notice in writing to the Trustee and upon the surrender hereof, is entitled to receive the cash redemption value of the Trust Shares evidenced by this Certificate. At any time prior to March 1, 1950, or the prior termination of the said Agreement, the

registered holder of a Trust Shares Certificate or Certificates representing one thousand Trust Shares, upon giving the Trustee ten days notice in writing, and upon surrender of said Certificates, and upon payment to the Trustee of taxes, duties, transfer charges and fees, is entitled to receive, duly endorsed, and in proper form for transfer all the shares of stock then constituting one Stock Unit, and a sum in cash equivalent to the cash value of one Distribution Unit.

The Trust Shares evidenced by this Certificate are transferable on the books of the Trustee, maintained for such purpose, by the holder hereof in person or by Attorney, upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF Independence Shares Corporation has caused this Certificate to be signed in its name by an authorized officer.

INDEPENDENCE SHARES CORPORATION,

By

Dated

19 . Philadelphia, Pa.

This certificate is one of the certificates referred to in the within mentioned Agreement and Declaration of Trust. The property described on the reverse hereof has been deposited with this Company thereunder.

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By

Assistant Secretary.



## (Back of Certificate.)

The Deposit Unit, referred to on the face hereof is composed of the following property and cash: A. One Stock Unit which consists of one (1) share of the common capital stock of each of the following corporations:

Aetna Life Insurance Company (Hartford)  
Allied Chemical & Dye Corporation  
Allis-Chalmers Manufacturing Company  
American Can Company  
American Gas and Electric Company  
American Power & Light Company  
American Telephone and Telegraph Company  
American Tobacco Company, The (Class "B" Stock)  
Atchison, Topeka and Santa Fe Railway Company, The  
Atlantic Refining Company, The  
Bankers Trust Company (New York)  
Borden Company, The  
Chase National Bank of the City of New York, The  
Chesapeake and Ohio Railway Company, The  
Consolidated Gas Company of New York  
Continental-Illinois Bank and Trust Company (Chicago)  
Corn Products Refining Company  
Eastman Kodak Company  
E. I. duPont de Nemours & Company  
Electric Bond & Share Company  
Fidelity-Phenix Fire Insurance Company of New York  
First National Bank of Boston, The  
General Electric Company  
General Motors Corporation  
Home Insurance Company of New York  
Insurance Company of North America (Phila.)  
International Harvester Company  
Manhattan Company, The  
National Biscuit Company  
National City Bank of New York, The  
New York Central Railroad Company, The

New York Trust Company, The  
Pacific Lighting Corporation  
Pennsylvania Railroad Company, The  
Philadelphia National Bank, The  
Public Service Corporation of New Jersey  
Security-First National Bank of Los Angeles  
Southern Pacific Company  
Standard Oil Company of California  
Standard Oil Company of Indiana  
Standard Oil Company of New Jersey  
Texas Corporation, The  
Union Carbide & Carbon Corporation  
Union Pacific Railroad Company  
Union Trust Company, The (Cleveland)  
United Gas Improvement Company, The  
United States Fidelity and Guaranty Company (Baltimore)  
United States Steel Corporation  
Westinghouse Electric and Manufacturing Company  
Woolworth Company, F. W.

and B: One Distribution Unit which consists of (1) a sum, in cash equal to the cash dividends paid on the stocks comprising the Stock Unit and received by the Trustee since the next preceding February 28th or August 31st, and (2) all stock dividends, subscription rights, securities and other rights and property (excepting cash) distributed by the Companies comprising the Stock Unit since the next preceding February 28th or August 31st, or the equivalent in cash of the net market value thereof, or the net cash proceeds from the sales thereof, received by the Trustee since the next preceding February 28th or August 31st, all as provided in the said Agreement referred to on the face hereof.

**ORIGINAL AGREEMENT RELATING TO TRUSTEE'S  
FEES AND SPECIAL REDEMPTION FUND.**

**THIS AGREEMENT** dated as of the 2nd day of April, 1930,  
made by and between

**INDEPENDENCE SHARES CORPORATION**

a Corporation duly organized and existing under the laws  
of the State of Delaware, hereinafter referred to as the  
Depositor, and

**THE PENNSYLVANIA COMPANY**

**FOR INSURANCES ON LIVES AND GRANTING ANNUITIES**

a corporation duly organized and existing under the laws of  
the Commonwealth of Pennsylvania, hereinafter called the  
Trustee, WITNESSETH:

**WHEREAS**, The Depositor and the Trustee have entered  
into a certain Trust Agreement of even date, copy of which  
is hereto attached and made a part hereof, and

**WHEREAS**, The said Trust Agreement makes no provi-  
sion for the compensation of the Trustee thereunder and  
further makes no provision for any fund to provide for the  
redemption of Trust Shares Certificates, as provided in  
Section 3, Article 6 of said Trust Agreement.

**NOW THEREFORE**, IN CONSIDERATION of the premises,  
and of the mutual covenants of the parties, it is hereby  
agreed as follows:

**COMPENSATION OF TRUSTEE.**

**ARTICLE 1.**

The Depositor will pay to the Trustee as compensation  
for its charges and for its services rendered in connection  
with the administration of the Trust property deposited  
under the aforementioned Trust Agreement, as follows:



(a) One cent (1¢) per share for each Independence Trust Share issued.

(b) In addition thereto, one-half cent ( $\frac{1}{2}$ ¢) semi-annually per share for each Trust Share outstanding February 28th and August 31st of each year up to and including the number of one million (1,000,000) shares; as to shares outstanding in excess of one million (1,000,000) and up to and including two million (2,000,000) three eighths of one cent ( $\frac{3}{8}$ ¢) per share semi-annually; and as to all shares outstanding in excess of two million (2,000,000) up to and including three million (3,000,000) one-fourth of one cent ( $\frac{1}{4}$ ¢) per share semi-annually; and as to all shares outstanding in excess of three million (3,000,000) one eighth of one cent ( $\frac{1}{8}$ ¢) per share semi-annually.

As to compensation for the issue of new shares, such compensation shall be paid as to new shares issued during the six months ending with February 28th and August 31st in each year, and payment therefore shall become due and payable on the next following April 1st and October 1st as the case may be.

As to semi-annual compensation on shares outstanding, such compensation shall be computed as of February 28th of each year and payment shall become due and payable on the next following April 1st, and as to compensation computed as of August 31st, payment shall become due and payable on the next following October 1st.

The Trustee is hereby authorized to retain the compensation above provided for from payments payable by the Trustee, pursuant to the said Trust Agreement to the Depositor.

## DEPOSITORS REDEMPTION FUND.

### ARTICLE 2.

1. Coincidentally with the execution and delivery of this Agreement, Depositor shall deposit with the Trustee

in an account to be entitled Depositors Redemption Fund the sum of Ten thousand dollars (\$10,000.).

2. The Depositors Redemption Fund shall at all times be the sole property of the Depositor, and shall not for any purposes be deemed a part of the trust property under the said Trust Agreement.

3. The Trustee is empowered and authorized to withdraw monies from the Depositors Redemption Fund, but only for the purposes of Section III of Article 6 of the said Trust Agreement.

4. In case any holder of a Trust Shares Certificate or Certificates representing less than one thousand (1000) Trust Shares shall surrender his Certificate or Certificates for redemption as provided in Section III of Article 6 of said Trust Agreement, properly endorsed in blank, the Trustee is hereby authorized to pay to such holder, in cash from the Depositors Redemption Fund, a sum equal to the Redemption Value (as defined in the Trust Agreement) of the shares so surrendered, and the Trustee shall hold the said shares for the account of the Depositor and shall forthwith notify the Depositor of such transaction.

5. The Depositor upon reimbursing the Depositors Redemption Fund to the extent of the amount withdrawn for cash redemption shall have the right to have shares surrendered for redemption transferred to it or upon its order.

6. When and in case the Trustee shall have, by such redemptions, accumulated a total of one thousand (1000) shares, and the Depositor shall have neglected to have the shares transferred to it or upon its order as provided for immediately above, the Trustee shall for and on behalf of the Depositor surrender such one thousand (1000) shares for cancellation and shall withdraw one deposit unit from

the deposited property, liquidate the same as expeditiously as possible and deposit the proceeds of said liquidation in the Depositors Redemption Fund.

## INTEREST TO DEPOSITOR.

### ARTICLE 3.

1. The Trustee shall allow and pay to the depositor semi-annually on April 1st and October 1st of each year, interest on the balances in the Depositors Redemption Fund at such rate or rates (but not less than the rate of 4% per annum) from time to time allowed by it on time deposits of similar amounts.

2. The Trustee shall allow and pay to the Depositor semi-annually on April 1st and October 1st of year, interest on all the various funds maintained pursuant to the said Trust Agreement, at such rate or rates (but not less than the rate of 3% per annum) from time to time allowed by it on time deposits of similar amounts.

3. Wherever the term time deposits is used herein it shall be defined as the term is generally used by bankers at the time of the then current interest period.

## EXECUTION.

### ARTICLE 4.

The date of this agreement is intended as the date of the identification hereof and is not intended to indicate that it was executed and delivered on said date. This agreement shall be fully effective for all purposes hereof from the date of actual execution and delivery hereof.

IN WITNESS WHEREOF, The Depositor and the Trustee have caused this agreement to be signed by their respective Presidents or Vice-Presidents and their respective seals to



be hereunto duly affixed, and attested by their respective Secretaries or Assistant Secretaries, this 23rd day of May, 1930.

INDEPENDENCE SHARES CORPORATION,

By ROBERT F. HOLDEN,  
*President.*

Attest:

R. N. LANDRETH,  
(Seal) *Secretary.*

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By JOHN H. MASON,  
*Vice-President.*

Attest:

L. J. CLARK,  
(Seal) *Secretary.*

**SUPPLEMENTAL AGREEMENT.**

**THIS AGREEMENT** dated this 24th day of November, 1930, made by and between

**INDEPENDENCE SHARES CORPORATION**

a Corporation duly organized and existing under the laws of the State of Delaware, hereinafter referred to as the Depositor, and

**THE PENNSYLVANIA COMPANY**

**FOR INSURANCES ON LIVES AND GRANTING ANNUITIES**

a Corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter called the Trustee, WITNESSETH:

WHEREAS, The Depositor and the Trustee have entered into a certain Agreement and Declaration of Trust dated as of April 2, 1930, relating to the issuance of Independence Trust Shares, a copy whereof, for convenience of reference is hereto attached, and the said Trust Agreement provides, inter alia, that the Depositor shall be entitled to receive from the Trustee interest on the Distribution Account thereunder, and the Depositor desires to waive its right to receive said interest, and to make appropriate provision that such interest shall inure to the benefit of the owners of Independence Trust Shares, and the Trustee is willing to receive such interest and administer and apply the same for the benefit of the owners of Independence Trust Shares.

NOW THEREFORE, FOR AND IN CONSIDERATION of the premises, and of the mutual covenants of the parties, it is hereby agreed as follows:

I. The Depositor hereby waives its right to receive interest on the Distribution Account as provided in the said Trust Agreement.

II. The Depositor hereby releases and discharges the Trustee from any duty or obligation to pay interest on the Distribution Account to it, the said Depositor.

III. The Trustee agrees and declares that it will allow interest on the Distribution Account under the said Trust Agreement, at rates currently allowed by it on time deposits of similar amounts and character.

IV. The Trustee does hereby agree that it will pay into or credit to the Distribution Account such interest as is allowed from time to time and hold, administer and apply the same for the benefit of the owners of Independence Trust Shares in the same manner as if such interest had been provided for the benefit of the owners of Independence Trust Shares under the terms of the Trust Agreement.

V. THIS AGREEMENT shall terminate with the termination of the Trust Agreement herein referred to.

IN WITNESS WHEREOF, The Depositor and the Trustee have caused this Agreement to be signed by their respective Presidents or Vice-Presidents and their respective corporate seals to be hereunto affixed, and attested by their respective Secretaries or Assistant Secretaries as of the day and year first above written.

INDEPENDENCE SHARES CORPORATION,

By ROBERT F. HOLDEN,  
*President.*

Attest:

R. N. LANDRETH,  
(Seal) *Secretary.*

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By FRANK G. SAYRE,  
*Vice-President.*

Attest:

LEWIS M. EVANS,  
(Seal) *Asst. Secretary.*

**PREAMBLE AND RESOLUTION AFFECTING SEMI-ANNUAL ADMINISTRATION FEE.**

**MEETING OF THE BOARD OF DIRECTORS OF MAY 27TH, 1931.**

WHEREAS, it has come to the attention of this Board of Directors that Section III of Article Seven of the Agreement and Declaration of Trust, under which Independence Trust Shares are issued, has been, from time to time, erroneously construed as creating a fixed semi-annual charge of  $1\frac{1}{2}\text{¢}$  per trust share outstanding, against the distribution account, under the said Trust Agreement, and

WHEREAS, such a construction of said Section III is not consistent with the true purpose of the said provision and is contrary to the true intent of this corporation, and

WHEREAS, the members of this Board deem it advisable that the true purpose of the said provision and the true intent of this corporation in respect thereto be more fully set forth and be made known to all persons and bodies corporate concerned,

RESOLVED, That the true purpose of Section III of Article Seven of the Trust Agreement, which here follows:

“SECTION III. The Depositor shall be entitled to charge not in excess of one and one-half ( $1\frac{1}{2}\text{¢}$ ) cents semi-annually for each Trust Share outstanding on February 28th and August 31st of each year as an administration fee hereunder, out of which sum the Depositor shall pay the Trustee its fees for its services hereunder; but the Depositor shall have the right to charge less than such amount if it so elects. Said administration fee as fixed by the Depositor from time to time, under the terms of this section, shall be deducted from the funds in the Distribution Account and shall be paid by the Trustee to the Depositor on April first and October first of each year.”



is to provide a current source of funds to meet the reasonable, proper and necessary expenses incident to the continuing maintenance of the Trust, and to provide a just, fair and reasonable compensation to this Corporation for services rendered from time to time in connection with the continuing management of the Trust, and

FURTHER RESOLVED, That the true intent of this Corporation in respect thereto is to provide a reasonable, proper and adequate management of the Trust throughout the life thereof at the lowest cost consistent with the best interests of the owners of Independence Trust Shares, and

FURTHER RESOLVED, Subject, however, to the right of the Depositor to change and modify the instructions which here follow, under circumstances which in the discretion of this Corporation, with the approval of the Trustee, require that a change or modification be made in order to better provide for the continuing maintenance of the Trust, and subject always to the maximum limitation set forth in Section III of Article Seven of the Agreement and Declaration of Trust, the officers of this Corporation be and are hereby instructed to fix the semi-annual administration fee from time to time in accordance with the following instructions:

1. The administration fee shall not be in excess of the total of the reasonable, proper and necessary expenses of this Corporation incident to the continuing maintenance of the Trust, and a just, fair and reasonable compensation to this Corporation for services rendered from time to time in connection with the continuing management of the Trust.

2. The administration fee for each semi-annual period shall not be in excess of two and one-half per cent ( $2\frac{1}{2}\%$ ) of the currently distributable income as defined in paragraph five hereof, unless such two and one-half per cent ( $2\frac{1}{2}\%$ ) of the distributable income be inadequate to meet

the reasonable, proper and necessary expenses incident to the continuing maintenance of the Trust, in which event

3. there may be included in such administration fee for such semi-annual period a portion of the current distributions of principal, as defined in paragraph six hereof, which portion shall not exceed two and one-half per cent ( $2\frac{1}{2}\%$ ) of such current distributions of principal.

4. No charge shall be made on behalf of this Corporation as compensation for its current services in connection with the continuing maintenance of the Trust, unless the said two and one-half per cent ( $2\frac{1}{2}\%$ ) of income be adequate to pay not only such compensation to this Corporation but also all expenses of maintenance of the Trust.

5. For the purposes of these instructions, "Distributable Income" shall be taken to mean all cash dividends paid by the Companies of the portfolio of the Trust (excepting dividends distributed in liquidation or in dissolution of the said Companies, partial or otherwise), received by the Trustee during the six months period in respect of which the current semi-annual distribution is made, together with interest on the Distribution Account for such period.

6. For the purposes of these instructions, "Distributable Principal" shall be taken to mean the net cash proceeds of the sales of any stocks, securities, rights or other property required to be sold under the Trust Agreement and any dividends received by the Trustee in liquidation or in dissolution, partial or otherwise, of any of the Companies of the portfolio received by the Trustee during the six months period in respect of which the current semi-annual distribution is made.

**FURTHER RESOLVED**, That the foregoing resolution be and is hereby declared to be binding upon this Corporation, its successors and assigns with the same force and effect

as if the terms of the foregoing resolution were incorporated in the aforesaid Agreement and Declaration of Trust.

FURTHER RESOLVED, That the officers of Independence Shares Corporation be and are hereby authorized to make known the substance of the foregoing resolutions to all persons and bodies corporate who now are or in the future may be concerned with or in the Trust which forms the foundation for the issuance and maintenance of Independence Trust Shares.

This is to certify that the foregoing preamble and resolutions are true and correct excerpts from the minutes of the meeting of the Board of Directors of Independence Shares Corporation held May 27th, 1931, at which meeting there was a quorum present.

(Seal)

PAUL H. MYRICK,  
Secretary.

## SECOND SUPPLEMENTAL AGREEMENT.

THIS AGREEMENT dated this 8th day of June, 1931  
between

## INDEPENDENCE SHARES CORPORATION,

a Corporation duly organized and existing under the laws  
of the State of Delaware, hereinafter referred to as the  
Depositor, and

## THE PENNSYLVANIA COMPANY,

## FOR INSURANCES ON LIVES AND GRANTING ANNUITIES

a Corporation duly organized and existing under the laws  
of the Commonwealth of Pennsylvania, hereinafter called  
the Trustee, WITNESSETH:

WHEREAS, The Depositor and Trustee have entered  
into a certain Agreement and Declaration of Trust dated  
as of April 2nd, 1930, relating to the issuance of Inde-  
pendence Trust Shares, a copy whereof for convenience of  
reference is hereto attached and which for purposes of  
identification is herein referred to as Trust Agreement, and

WHEREAS, The Depositor and Trustee have entered  
into a certain Agreement supplemental thereto, dated  
November 24th, 1930, a copy whereof for convenience of  
reference is hereto attached and which for purposes of  
identification is hereinafter referred to as Supplemental  
Agreement, and

WHEREAS, The Trust Agreement provides in Article  
III, Section Three as follows:

"The Trustee shall hold all moneys deposited with  
it or received by it hereunder, as a general deposit  
until required to disburse the same in accordance with  
the provisions of this Agreement, and the require-  
ments of any rule or law or statute now or hereafter in  
force regarding the investment or segregation of trust  
funds shall not apply to such moneys."

and



WHEREAS, It has been the practice in fact for the Trustee to hold all such moneys as trust property, and

WHEREAS, The said Trust Agreement does not in specific terms provide for the giving of notice to the holders of Trust Shares as to the termination of the trust, and

WHEREAS, It is the intention of the parties hereto to make appropriate provision for the further protection and safeguarding of the interests of the holders of Independence Trust Shares Certificates,

NOW, THEREFORE, IN CONSIDERATION of the premises, and of the mutual covenants of the parties, it is hereby agreed as follows:

1. The specific terms of Article III, Section Three notwithstanding, the Trustee shall hold all moneys deposited with it or received by it under the said Trust Agreement as trust property until required to disburse the same in accordance with the provisions of the said Trust Agreement, but the Trustee shall be required to pay interest only at such rate or rates from time to time allowed by it on time deposits of similar amounts. The term "time deposit" as used herein, is hereby defined as the term is generally used by bankers at the time of the then current interest period.

2. That thirty days prior to the final termination of the Trust as a whole, the Trustee shall give notice to the registered holders of Independence Trust Shares Certificates of the date of the final distribution of the trust property by (a) placing in a United States Post Office, or any substation thereof, in a postpaid sealed wrapper, addressed to each registered holder of Independence Trust Shares Certificates, to the address appearing on the books of registry of the Trustee an appropriate notice relating to such final distribution and, (b) causing an appropriate notice of such final distribution to be published in a daily newspaper, printed in the English language, of general cir-

ulation in the Borough of Manhattan, City and State of New York, and in such a newspaper published in the City of Philadelphia, Pennsylvania, and in such a newspaper published in each City of the United States of America in which it appears, according to the books of registry of the Trustee, that there reside one thousand (1,000) or more holders of Independence Trust Shares Certificates, and in a newspaper of general circulation published in the capital cities of each foreign country in which it appears from the books of registry of the Trustee that there reside in such country one thousand (1,000) or more holders of Independence Trust Shares Certificates.

It is understood by the parties hereto that the cost of such notice is a property item of expense incident to the termination of the Trust and as such may be deducted by the Trustee from the Distribution Fund under the Trust, pursuant to Section IV of Article Five of the Trust Agreement.

3. The Trustee agrees that in all practicable cases, and consistent with the safeguarding of the interests of the holders of Independence Trust Shares, sales of securities and other property required to be sold under the terms of the Trust Agreement will be made through a recognized Exchange, and delivery of and payment for such security will be between the Trustee and the broker or dealer or other purchaser.

4. The Depositor and the Trustee agree that neither the Depositor nor the Trustee will rely, in any matter affecting the holders of Trust Shares Certificates, upon the opinion of counsel, excepting in purely legal matters.

5. The Depositor agrees, when and as, in accordance with the terms of the Trust Agreement, securities are to be eliminated from the Trust, that it will secure the consent of the Trustee in respect to the time, place and manner in which the said eliminated securities shall be sold, subject always to such restrictions as may be contained in the

original Trust Agreement, and provided that this section shall not, under any circumstances whatsoever, be construed to impose any liability upon the Trustee or the Depositor as the result of the giving or withholding of such consent by the Trustee, except, in the case of each, as to their own gross negligence or wilful malfeasance.

6. For convenience of identification and reference this Agreement shall be known as Second Supplemental Agreement.

7. This Agreement shall terminate with the termination of the Trust Agreement herein referred to.

IN WITNESS WHEREOF, The Depositor and the Trustee have caused this Agreement to be signed by their respective Presidents or Vice-Presidents and their respective corporate seals to be hereunto affixed, and attested by their respective Secretaries or Assistant Secretaries, as of the day and year first above written.

INDEPENDENCE SHARES CORPORATION,

By ROBERT F. HOLDEN,  
President

Attest:

R. N. LANDRETH,  
(Seal) Secretary.

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By FRANCIS SAYRE,  
Vice-President.

Attest:

LEWIS M. EVANS,  
(Seal) Asst. Secretary.

**AGREEMENT RELATING TO MODIFICATION OF  
TRUSTEE'S FEES.**

THIS AGREEMENT dated this 8th day of June, 1931,  
made between

**INDEPENDENCE SHARES CORPORATION**

a Corporation duly organized and existing under the laws  
of the State of Delaware, hereinafter referred to as the  
Depositor, and

**THE PENNSYLVANIA COMPANY**

**FOR INSURANCES ON LIVES AND GRANTING ANNUITIES**

a Corporation duly organized and existing under the laws  
of the Commonwealth of Pennsylvania, hereinafter called  
the Trustee, WITNESSETH:

WHEREAS, The Depositor and the Trustee have entered  
into a certain Agreement dated as of the second day of  
April, 1930, relating, inter alia, to provision for the com-  
pensation of the Trustee for its services in connection with  
a certain Agreement and Declaration of Trust dated as of  
April 2nd, 1930, between the Depositor Corporation and  
the Trustee, which latter agreement is hereinafter referred  
to as Trust Agreement, and

WHEREAS, It has become expedient that the Depositor  
Corporation express the semi-annual administration fee  
provided in the said Trust Agreement in terms of per-  
centage of income, rather than in terms of cents per Trust  
Share in order to conform to recent developments in the  
field of fixed investment trusts, and

WHEREAS, The parties hereto believe it to be to their  
mutual advantage that the existing Agreement relating to  
the Trustee's compensation be modified in some respects  
so that the same may be expressed in terms of percentage  
of income of the Trust.

Now, THEREFORE, IN CONSIDERATION of the premises,  
and of the sum of One Dollar (\$1.00), and of the mutual  
covenants of the parties, it is hereby agreed as follows:



1. The Depositor will pay to the Trustee the sum of one cent (1¢) per share for each Independence Trust Share issued as heretofore and as set forth in Article 1, Subsection (a) of the aforementioned Agreement of April 2nd, 1930.

2. That portion of the Trustee's fees which is referred to in Article 1, Subsection (b) of the said Agreement of April 2nd, 1930, for convenience, is hereinafter referred to as Trustee's semi-annual compensation.

3. As to each semi-annual distribution period, the Trustee's semi-annual compensation shall be two and one half per cent ( $2\frac{1}{2}\%$ ) of the then distributable income, but if such sum be less for such distribution period than the aggregate sum then receivable by the Trustee if the same were computed in accordance with Article 1, Subsection (b) of the aforesaid Agreement, then the Trustee's semi-annual compensation shall include in addition thereto up to two and one-half per cent ( $2\frac{1}{2}\%$ ) of the then distributable principal, provided always that the Trustee's semi-annual compensation so computed shall not exceed the aggregate sum receivable by the Trustee if the same were computed under the schedule set forth in Article 1, Subsection (b) of the aforesaid Agreement, for the same distribution period.

4. For the purposes of this Agreement, "Distributable Income" shall be taken to mean all cash dividends paid by the Companies of the Portfolio of the Trust (excepting dividends distributed in liquidation or in dissolution of the said Companies, partial or otherwise), received by the Trustee during the six months period in respect of which the current semi-annual distribution is made, together with interest on the Distribution Account for such period.

5. For the purposes of this Agreement, "Distributable Principal" shall be taken to mean the net cash proceeds of the sales of any stocks, securities, rights or other property required to be sold under the Trust Agreement and any

dividends received by the Trustee in liquidation or in dissolution, partial or otherwise, of any of the Companies of the Portfolio received by the Trustee during the six months period in respect of which the current semi-annual distribution is made.

6. The Trustee releases the Depositor from any claims for all compensation for its services under the said Trust Agreement in excess of that computed in accordance with Section 1 and 3 hereof.

7. The terms of the aforementioned Agreement of April 2nd, 1930, and of that certain Supplemental Agreement between the parties hereto, dated November 24th, 1930, be and are hereby confirmed and ratified insofar as the same be not inconsistent with the specific provisions of this Agreement.

IN WITNESS WHEREOF, The Depositor and the Trustee have caused this Agreement to be signed by their respective Presidents or Vice-Presidents and their respective corporate seals to be hereunto affixed, and attested by their respective Secretaries or Assistant Secretaries, as of the day and year first above written.

**INDEPENDENCE SHARES CORPORATION,**

By **ROBERT F. HOLDEN,**  
President

Attest:

**R. N. LANDRETH,**  
(Seal) Secretary.

**THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,**

By **FRANCIS SAYRE,**  
Vice-President.

Attest:

**LEWIS M. EVANS,**  
(Seal) Asst. Secretary.

**THIRD SUPPLEMENTAL AGREEMENT.**

**THIS THIRD SUPPLEMENTAL AGREEMENT**, dated this 16th day of December, 1938, between **INDEPENDENCE SHARES CORPORATION**, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as the "Depositor"), and **THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES**, a corporation also duly organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as the "Trustee"), amending and supplementing Agreement and Declaration of Trust between the Depositor and the Trustee, dated as of the second day of April, 1930, Agreement dated as of April 2, 1930, and Agreement dated June 8, 1931,

**WITNESSETH:**

That in consideration of the premises and of the mutual covenants of the parties hereto, each of the parties hereto intending to be legally bound hereby, parties hereto agree to and with each other as follows:

I. Section II of Article One of the Agreement and Declaration of Trust dated as of April 2, 1930, shall be amended to read as follows:

"Section II. Additional Deposit Units may be deposited with the Trustee by the Depositor from time to time until February 28, 1970 or until prior termination of this Agreement, but each such additional Deposit Unit at the time of deposit must be identical in composition with each of the Deposit Units as they are composed at the close of business of the business day next preceding the date of deposit of each such additional Deposit Unit, and all Deposit Units must be identical, each with the other, at all times."

Section II of Article Five is hereby amended to read as follows:

"Section II. The Term 'Distributable Funds', wherever used in this Agreement, shall mean any cash distributions made by any of the Companies out of surplus earnings or profits or in liquidation or dissolution received by the Trustee during the six months period in respect of which the current semi-annual distribution is made, and also, as to such period, the net cash proceeds of the sale of any stock, securities, rights or other property, required to be sold hereunder, received by the Trustee; but the term Distributable Funds shall not include funds against which distribution checks issued at a prior distribution date are outstanding and unpaid, nor funds set up by the Trustee for payment of taxes or other proper charges under the terms hereof, nor funds required for the reimbursement of the Trustee as provided in Article Seven, Section VI, hereunder, nor funds applied by the Trustee for the purchase of fractions of shares if any be purchased, as authorized by Article Three, Section VII, nor funds payable to the Depositor under Article Seven, Section III, nor any other charges which may be made against such Distributable Funds under the terms of this Agreement. For the purpose of determining what funds are distributable hereunder, cash distributions of any of the Companies shall be considered as received by the Trustee on the date of the receipt of the same by it, and the proceeds of the sale or sales of any property sold hereunder shall be considered as received by the Trustee on the date that such proceeds are paid to the Trustee, and not on the date when the property on which such proceeds were realized, was received by the Trustee."

3. Section IV of Article Five is hereby amended to read as follows:

"Section IV. The Trust under this Agreement shall automatically terminate on February 28, 1970,



unless sooner terminated as herein provided. If at any time on or after September 30, 1950, the number of Trust Shares issued and outstanding are less than 500,000 trust shares, the Trust under this Agreement may be terminated by the Depositor or the Trustee upon a date then specified. Upon the termination of the Trust the Trustee shall discontinue the acceptance of the deposits of additional stock of the companies. Within seven months next succeeding February 28, 1970, or next succeeding the date of termination of the Trust, whichever shall be earlier, the Trustee shall proceed with the liquidation and sale of all securities then on deposit with it under the terms and conditions hereof. The transfer books for the registration and transfer of Trust Shares Certificates shall be finally closed upon the date upon which the sale of all of the securities on deposit shall have been consummated and thereafter the Trustee shall not be required to transfer any such Trust Shares Certificates. Thirty days after the date upon which the sale of all of the securities on deposit shall have been consummated, the Trustee shall distribute pro rata all cash proceeds of such sales of securities, together with all cash funds held by it in the Distribution Account, after deduction of any reasonable brokerage fees or commissions which may be paid by the Trustee, and expenses of the Trustee, in connection with such sales, and after setting up and reserving amounts sufficient in the judgment of the Trustee to cover all taxes, expenses and other charges incident to the termination of the Trust, to the registered holders of outstanding Trust Shares Certificates, upon surrender of certificates to the Trustee and upon payment to it of the amount required to pay any Government and stamp duties and any other taxes of any kind and of any and all transfer fees or charges of any kind, if required; and after the final distribution by the Trustee no further rights shall accrue or belong to holders

of Trust Shares Certificates who fail to present their certificates to the Trustee, except the right to receive a pro rata share of the distribution without interest, subject to the provisions of Section V of this Article.

4. Section V of Article Five is hereby amended to read as follows:

"Section V. In case any certificate or certificates shall not be presented pursuant to Section IV. of this Article within six years after the date of the termination of the Trust under this Agreement, the Trustee, upon the written order of the Depositor, shall pay over to the Depositor the moneys, if any payable with respect to such certificate or certificates; provided, however, that the Trustee, before being required to make such payment, may cause notice to be published, at the expense of the Depositor, once a week for four successive calendar weeks, (in each case on any day of the week) in a daily newspaper published and of general circulation in the Borough of Manhattan, City and State of New York, and in such a newspaper published in the City of Philadelphia, Pennsylvania, stating that such moneys have not been claimed and after a date specified therein such moneys will be paid over to the Depositor; and thereafter the holder or holders of such certificate or certificates shall look only to the Depositor for payment thereof. Neither the Trustee nor the Depositor shall be required to pay the holder of any certificate interest on any moneys so held by the Trustee or paid over by it to the Depositor."

5. Section I of Article Six is hereby amended to read as follows:

"Section I. Until the termination of the Trust under this Agreement the holders of Trust Shares Certificates shall be entitled to receive semi-annual distributions on April first and October first each year,

and a final distribution upon termination of said Trust to the extent and in the manner provided in Article Five hereof."

6. Section II of Article Six is hereby amended to read as follows:

"Section II. At any time prior to the date of termination of the Trust under this Agreement, any registered holder of Trust Shares Certificates representing One Thousand (1000) Trust Shares, upon surrender thereof for conversion, and upon payment in cash to the Trustee of the amount required to pay any Government or stamp duties or other taxes of any kind, all transfer charges and fees of any kind if required, shall be entitled to receive, duly endorsed, and in proper form for transfer, all the shares of the stocks deposited with the Trustee then constituting one Stock Unit, and a cash sum equivalent to the cash value of one Distribution Unit, as of the close of business on the date of surrender of said certificates upon giving to the Trustee ten days notice in writing, accompanied by deposit of said Trust Shares Certificates, of the intention of the holder to surrender said certificates and upon such surrender such certificates shall forthwith be cancelled by the Trustee."

7. Section III of Article Six is hereby amended to read as follows:

"Section III. At any time prior to the date of the termination of the Trust under this Agreement, the registered holder of any Trust Shares Certificates, upon giving the Trustee notice in writing, accompanied by the deposit and surrender of the Trust Shares Certificates duly endorsed and a payment in cash to the Trustee of the amount required to pay any Government or stamp tax duties or other taxes of any kind, that such Trust Shares Certificates are deposited and

surrendered for redemption, shall, not more than three (3) days after the date of such deposit and surrender, be entitled to receive cash in an amount equivalent to the redemption value per share so offered for redemption as of the close of business on the date of such deposit and surrender. The Trustee shall, immediately upon the deposit and surrender of such certificates for redemption, notify the Depositor of such event and the Depositor shall have an option to purchase such shares at any time during such three day period by paying to such holder the cash redemption value which would otherwise have been paid by the Trustee."

8. The form of the Trust Shares Certificates issuable under the Trust Agreement shall be appropriately modified and amended so as to incorporate the changes required by this Third Supplemental Agreement and for the time being Trust Shares Certificates may be issued in their present form with an appropriate legend endorsed thereon giving notice of this Third Supplemental Agreement.

9. Section 1 and Section 2 of Article 3 of the Original Agreement relating to Trustee's fees and Special Redemption Fund, dated as of April 2, 1930, and Section III of Supplemental Agreement, dated November 24, 1930, both between the Depositor and the Trustee, are superseded and amended, as follows:

"It is agreed in view of the provisions of the Federal Banking Act of 1933, Section 11 (b), 12 U. S. C. A. (1936), Section 371 (a), as amended, and in view of the Regulations of the Department of Banking of the Commonwealth of Pennsylvania, that on and after the effective date of this Supplemental Agreement no interest will be allowed by the Trustee upon the Distribution Account or upon the Depositors' Redemption Fund or upon any other funds held by the Trustee under the terms of said Trust Agreement."



10. Article 1 of the Original Agreement dated as of April 2, 1930, relating to Trustee's fees and Special Redemption Fund, and the entire Agreement between the parties hereto dated June 8, 1931, relating to modification of Trustee's fees, be and they hereby are terminated, cancelled and superseded by the following:

"Effective on and after March 1, 1939, it is agreed that the Depositor shall be entitled to charge on February 28th and August 31st of each year, as an administration fee, a sum to be computed in accordance with the standard rates now fixed by the Trustee for transactions involved in the administration of the Trust during the preceding six months period, but in no event shall such fee be in excess of the amount of one cent semi-annually for each Trust Share issued and outstanding on February 28th and August 31st of each year, which fee shall be deducted from the funds in the Distribution Account on April first and October first of each year. The Depositor will pay to the Trustee as compensation for the services of the Trustee under the said Trust Agreement a sum equal to and computed in the same manner as the Depositor's administration fee, and the Trustee is authorized to appropriate such fee from the Distribution Account on April first and October first of each year in full and complete discharge of the obligation of the Depositor to pay the Trustee's compensation under the terms of this Agreement."

11. All of the terms of all of the Agreements herein referred to be and the same hereby are ratified and confirmed insofar as the same are not specifically amended by or are not inconsistent with the specific provisions of this Agreement.

It is understood and agreed that this Agreement shall become effective as at January 3, 1939.

IN WITNESS WHEREOF, the Depositor and the Trustee have caused this Agreement to be signed by their respective

President or Vice-President, and their respective corporate seals to be hereunto affixed and attested by their respective secretaries or Assistant Secretaries, all as of the day and year first above written.

INDEPENDENCE SHARES CORPORATION,

By

ALFRED H. GEARY,  
*President.*

Attest:

ROBERT A. BONNER,  
*Secretary.*

(SEAL)

THE PENNSYLVANIA COMPANY  
FOR INSURANCES ON LIVES  
AND GRANTING ANNUITIES,

By

F. H. SHIELDS,  
*Vice-President.*

Attest:

LEWIS M. EVANS,  
*Assistant Secretary.*

(SEAL)

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# SUPREME COURT OF THE UNITED STATES.

Nos. 17, 18.—OCTOBER TERM, 1940.

- Robert J. Deckert, et al.  
17                      *vs.*  
Independence Shares Corp., et al.
- Robert J. Deckert, et al.  
18                      *vs.*  
The Pennsylvania Company for Insur-  
ances on Lives and Granting Annuities.

On Writs of Certiorari to  
the United States Circuit  
Court of Appeals for the  
Third Circuit.

[December 9, 1940.]

Mr. Justice MURPHY delivered the opinion of the Court.

Two important questions are presented by these petitions. The first is whether the Securities Act of 1933 (48 Stat. 74) authorizes purchasers of securities to maintain a suit in equity to rescind a fraudulent sale and secure restitution of the consideration paid, and to enforce the right to restitution against a third party where the vendor is insolvent and the third party has assets in its possession belonging to the vendor. The second question is whether such purchasers must show that the amount in controversy exceeds \$3,000 exclusive of interest and costs as required by Section 24 of the Judicial Code as amended (28 U. S. C. § 41).

Petitioners, with one exception residents of Pennsylvania, are owners and holders of Capital Savings Plan Contract Certificates purchased from Capital Savings Plan, Inc., since merged with and now Independence Shares Corporation, a Pennsylvania corporation. These certificates required the holders to make certain installment payments to The Pennsylvania Company for Insurances on Lives and Granting Annuities, also a Pennsylvania corporation.<sup>1</sup> Pennsylvania, after deducting certain fixed charges, used the balance of these installment payments to purchase Independence Trust Shares for the benefit of the certificate holders. Independence Trust Shares,

<sup>1</sup> For convenience the three corporations just named will be referred to as Capital, Independence, and Pennsylvania.



issued by Pennsylvania, represented interests in a trust of common stocks of 42 American corporations deposited by Independence with Pennsylvania. Pursuant to trust agreement and indenture between Pennsylvania and Independence, Pennsylvania collected dividends and profits from the stocks and administered the trust.

Petitioners brought this suit in the District Court for the Eastern District of Pennsylvania against Pennsylvania, Independence, two affiliated companies, and certain officers and directors of Independence whose residence does not appear. The action against the affiliated companies has been dismissed.

The bill alleges that Independence and its predecessor Capital were guilty of fraudulent misrepresentations and concealments in their sale and advertisement of contract certificates to petitioners and others similarly situated in violation of the Securities Act of 1933. It alleges that Independence is insolvent and threatened with many law suits, that its business is virtually at a standstill because of unfavorable publicity, that preferences to creditors are probable, and that its assets are in danger of dissipation and depletion. Petitioners therefore pray the appointment of a receiver for Independence with power to collect and take possession of the assets of Independence and the trust assets held by Pennsylvania, liquidate the assets, determine the claims of petitioners and other certificate holders and pay them, and wind up and dissolve the corporations. They also seek relief incidental to the above and an injunction restraining Pennsylvania from transferring or disposing of any of the assets of the corporations or of the trust. There is the usual prayer for general relief.

None of the original petitioners' claims exceeds \$3,000 and respondents contend that the aggregate of all of them will not exceed \$3,000. It is conceded that the assets sought to be reached are greatly in excess of \$3,000.

Respondents answered the bill and thereafter moved to dismiss it. The motions were heard with petitioners' motions for a temporary injunction and the addition of two plaintiffs. The trial judge denied the motions to dismiss, approved the addition of two plaintiffs, but reserved decision on the application for a receiver. He directed the appointment of a master to take testimony and file a report on the question of the insolvency of Independence, and enjoined Pennsylvania from transferring or otherwise disposing of

the sum of \$38,258.85 representing certain charges, income, and proceeds received in administration of the trust. 27 F. Supp. 763.

Pennsylvania, Independence, and the individual defendants appealed from these orders. The Circuit Court of Appeals did not expressly consider whether the appeals were premature. It thought that the Securities Act did not authorize a bill seeking equitable relief against a third party which has assets belonging to the vendor, and therefore, that Pennsylvania was not a proper party to the suit since no cause of action under the Securities Act was stated against it. It reversed all of the orders appealed from and remanded the cause with directions to allow petitioners to amend their complaint to state a claim for a money judgment at law against Independence only. 108 F. (2d) 51. We granted certiorari because of the importance of the questions presented. 309 U. S. 648.

We believe that the appeals from the order granting the temporary injunction were not premature. It is true that Section 128 of the Judicial Code (28 U. S. C. § 225) authorizes circuit courts of appeals to review only final decisions. But Section 129 of the Judicial Code (28 U. S. C. A. § 227) expressly excepts from the general rule certain interlocutory orders and decrees. It provides in part: "Where, upon a hearing in a district court . . . an injunction is granted . . . by an interlocutory order or decree . . . an appeal may be taken from such interlocutory order or decree to the circuit court of appeals. . . ." Thus by the plain words of Section 129 the Circuit Court of Appeals was authorized to consider the appeals from the temporary injunction. Compare *Enelow v. New York Life Insurance Co.*, 293 U. S. 379; *Shanferoke Coal & Supply Corp. v. Westchester Service Corp.*, 293 U. S. 449.

However, this power is not limited to mere consideration of, and action upon, the order appealed from. "If insuperable objection to maintaining the bill clearly appears, it may be dismissed and the litigation terminated." *Meccano, Ltd. v. Wanamaker*, 253 U. S. 136, 141. See also *Eagle Glass & Mfg. Co. v. Rowe*, 245 U. S. 275; *Metropolitan Water Co. v. Kaw Valley Drainage District*, 223 U. S. 519; *Mast, Foos & Co. v. Stoner Mfg. Co.*, 177 U. S. 485; *Smith v. Vulcan Iron Works*, 165 U. S. 518. Accordingly, the Circuit Court of Appeals properly examined the interlocutory order denying the motions to dismiss, although generally it could consider such an order only on appeal from a final decision. *Reed v. Lehman*, 91 F. (2d) 919; *Miller v. Pyrites Co., Inc.*, 71 F. (2d) 804. Compare

*Gillespie v. Schram*, 108 F. (2d) 39; *Rodriguez v. Arosemena*, 91 F. (2d) 219; *Kneberg v. Green Co., Inc.*, 89 F. (2d) 100; *Satterlee v. Harris*, 60 F. (2d) 490.

Respondents' motions sought to dismiss the bill because it failed to state any cause of action and because the District Court lacked jurisdiction. We hold that these motions were correctly denied.

We think the Securities Act does not restrict purchasers seeking relief under its provisions to a money judgment. On the contrary, the Act as a whole indicates an intention to establish a statutory right which the litigant may enforce in designated courts by such legal or equitable actions or procedures as would normally be available to him. Undoubtedly any suit to establish the civil liability imposed by the Act must ultimately seek recovery of the consideration paid less income received or damages if the claimant no longer owns the security. Section 12(2); 15 U. S. C. § 77(1)(2). But Section 12(2) states the legal consequences of conduct prescribed by the Act; it does not purport to state the form of action or procedure the claimant is to employ.

Moreover, in Section 22(a) specified courts are given jurisdiction "of all suits in equity and actions at law brought to enforce any liability or duty created by this subchapter".<sup>2</sup> The power to enforce implies the power to make effective the right of recovery afforded by the Act. And the power to make the right of recovery effective implies the power to utilize any of the procedures or actions normally available to the litigant according to the exigencies of the particular case. If petitioners' bill states a cause of action when tested by the customary rules governing suits of such character, the Securities Act authorizes maintenance of the suit, providing the bill contains the allegations the Act requires. That it does not authorize the bill in so many words is no more significant than the fact that it does not in terms authorize execution to issue on a judgment recovered under Section 12(2).

We are of the opinion that the bill states a cause for equitable relief. There are allegations that Independence is insolvent, that its business is practically halted, that it is threatened with many law suits, that its assets are endangered, and that preferences to creditors are probable. There are prayers for an accounting, appointment of a receiver, an injunction *pendente lite*, and for return of petitioners' payments. Other allegations show that although pe-

<sup>2</sup> Emphasis added.

150 S.C., § 77v,

petitioners dealt with Independence their installments were paid to Pennsylvania and that the complicated arrangement between Pennsylvania and Independence might make it extremely difficult to obtain satisfaction of any claim established against Independence.

The principal objects of the suit are rescission of the Savings Plan contracts and restitution of the consideration paid, including recovery of the balance, held by Pennsylvania for account of Independence, which consisted in part of the payments alleged to have been procured by the fraud of Independence. That a suit to rescind a contract induced by fraud and to recover the consideration paid may be maintained in equity, at least where there are circumstances making the legal remedy inadequate, is well established. *Tyler v. Savage*, 143 U. S. 79; *Montgomery v. Bucyrus Machine Works*, 92 U. S. 257; *Boyce v. Grundy*, 3 Pet. 210. See Black, Rescission and Cancellation, 2d edition, § 643, *et seq.*; Williston, Contracts, 3d edition, § 1525, *et seq.*; Pomeroy, Equity Jurisprudence, 4th edition, §§ 881, 1092.<sup>3</sup>

It is enough at this time to determine that the bill contains allegations which, if proved, entitle petitioners to some equitable relief. Whether or not they sufficiently allege or prove their right to all of the relief prayed in the bill we do not decide because the question is not before us. Hence, if the District Court had jurisdiction it was proper to consider whether injunctive relief should be given in aid of the recovery sought by the bill.

We agree with the courts below that the Securities Act confers jurisdiction of the suit upon the District Court irrespective of the amount in controversy or the citizenship of the parties. Section 22(a) provides in part: "The district courts of the United States . . . shall have jurisdiction . . . of all suits in equity and actions at law brought to enforce any liability or duty created by this subchapter." This is plainly a suit to enforce a liability or duty created by the Act. That the District Court therefore has jurisdiction is evident from the provision quoted. Accordingly, the only remaining question is whether the injunction was proper.

We hold that the injunction was a reasonable measure to preserve the status quo pending final determination of the questions raised by the bill. "It is well settled that the granting of a temporary in-

<sup>3</sup> In *Falk v. Hoffman*, 233 N. Y. 199, 202, Judge Cardozo said: "Equity will not be over-nice in balancing the efficacy of one remedy against the efficacy of another when action will baffle, and inaction may confirm, the purpose of the wrongdoer."



junction, pending final hearing, is within the sound discretion of the trial court; and that upon appeal an order granting such an injunction will not be disturbed unless contrary to some rule of equity, or the result of improvident exercise of judicial discretion." *Prendergast v. New York Telephone Co.*, 262 U. S. 43, 50-51; *Meccano, Ltd. v. Wanamaker*, 253 U. S. 136, 141. As already stated, there were allegations that Independence was insolvent and its assets in danger of dissipation or depletion. This being so, the legal remedy against Independence, without recourse to the fund in the hands of Pennsylvania, would be inadequate. The injunction was framed narrowly to restrain only the transfer of \$38,258.85, and the trial judge required petitioners to furnish security for any losses respondents might suffer. In view of this we cannot say that the trial judge abused his discretion in granting the temporary injunction.

We conclude that the orders granting the temporary injunction and denying the motions to dismiss were correct and should have been sustained. The orders allowing the addition of two plaintiffs and referring the issue of insolvency to a master were interlocutory and not appealable (28 U. S. C. § 225),<sup>4</sup> and should have been reversed only if petitioners were not entitled to any equitable relief. See *Meccano, Ltd. v. Wanamaker*, 253 U. S. 136; *Smith v. Vulcan Iron Works*, 165 U. S. 518. The Circuit Court of Appeals properly did not consider them on the merits, and if ultimately there is an appeal from a final decree the correctness of these orders may be examined.

The decision of the Circuit Court of Appeals is reversed and the cause is remanded for further proceedings in conformity with this opinion.

*Reversed and remanded.*

Mr. Justice DOUGLAS did not participate in the consideration or decision of this case.

<sup>4</sup> An order allowing the addition of plaintiffs is interlocutory and not appealable: *Central California Canneries Co. v. Dunkley Co.*, 282 Fed. 406, 410. See *Oneida Navigation Corp. v. W. & S. Job & Co., Inc.*, 252 U. S. 521; *Cyclopedia of Federal Procedure*, Vol. 5, § 2608.

An order of reference to a master is generally interlocutory and not appealable, at least if not for a mere ministerial purpose: *George v. Victor Talking Machine Co.*, 293 U. S. 377. See *Latta v. Kilbourn*, 150 U. S. 524; *McGourkey v. Toledo, etc. Ry. Co.*, 146 U. S. 536; *Hill v. Chicago & Evanston Railroad Co.*, 140 U. S. 52; *Beebe v. Russell*, 19 How. 283; *Craighead v. Wilson*, 18 How. 199; *Forgay v. Conrad*, 6 How. 201; *Cyclopedia of Federal Procedure*, Vol. 5, § 2618.